



## **AGENDA GARDNER CITY COUNCIL**

City Hall – 120 East Main Street -- Gardner, Kansas  
Monday, March 15, 2021  
7:00 p.m.

*\*If you wish to provide written public comment regarding any items below by email, please provide them by noon on March 15, 2021 to [cityclerk@gardnerkansas.gov](mailto:cityclerk@gardnerkansas.gov). The meeting will be open to the public \**

*\*Watch this meeting live on the City's YouTube channel at <https://www.youtube.com/user/CityofGardnerKS> \**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **PRESENTATIONS**

### **PUBLIC HEARINGS**

### **PUBLIC COMMENTS**

Members of the public are welcome to use this time to make comments about City matters or items on the agenda that are not part of a public hearing

### **CONSENT AGENDA**

1. Standing approval of the minutes as written for the regular meeting on March 1, 2021
2. Standing approval of City expenditures prepared February 26, 2021 in the amount of \$819,386.51; March 1, 2021 in the amount of \$1,627,390.22; and March 5, 2021 in the amount of \$1,072,688.24
3. Consider authorizing the execution of a construction contract for the Hilltop Ridge Benefit District Projects
4. Consider a recommendation to appoint City of Gardner representative to the Kansas Municipal Energy Agency Board of Directors
5. Consider authorizing the execution of a service contract with Denali Water Solutions, LLC. for the 2021 Hillsdale WTP Waste and Residuals Pond Cleanout Project

### **PLANNING AND ZONING CONSENT AGENDA**

### **COMMITTEE RECOMMENDATIONS**

1. Consider adopting an ordinance incorporating proposed Land Development Code amendments

### **OLD BUSINESS**

### **NEW BUSINESS**

### **COUNCIL UPDATES** – Oral presentation unless otherwise noted

### **EXECUTIVE SESSION**

### **ADJOURNMENT**



In compliance with the Americans with Disabilities Act, the City of Gardner will provide reasonable accommodations for all public meetings. Persons requiring accommodations in attending any of our public meetings should contact the City Clerk's Office at 913-856-0945 a minimum of 48 hours prior to the meeting.

RECORD OF PROCEEDINGS  
OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS

Page No. 2021 – 21

March 1, 2021

The City Council of the City of Gardner, Kansas met in regular session on March 1, 2021, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Mark Baldwin, Randy Gregorcyk, Tory Roberts, and Kacy Deaton. City staff present were City Administrator James Pruetting; Deputy City Administrator Amy Nasta; Finance Director Matthew Wolff; Police Chief James Belcher; Utilities Director Gonzalo Garcia; Parks and Recreation Director Jason Bruce; Community Development Director David Knopick; Public Works Director Kellen Headlee; City Engineer Tim McEldowney; City Attorney Ryan Denk; and City Clerk Sharon Rose. Others present included those listed on the sign-in sheet and others who did not sign in.

**CALL TO ORDER**

There being a quorum of Councilmembers present, Mayor Shute called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Mayor Shute led those present in the Pledge of Allegiance.

**PRESENTATIONS**

**1. Proclaim the week of March 7-March 13, 2021 as Heroes Week in the City of Gardner, Kansas**

Mayor Shute read into record a proclamation recognizing the week of March 7-March 13, 2021 as Heroes Week in the City of Gardner, Kansas.

**2. I-35 and Gardner Road Interchange Project**

City Engineer Tim McEldowney provided a history of the project. In 2016, the city applied to Mid-America Regional Council (MARC) for funds to improve the north side of the interchange where 191<sup>st</sup> St connects adjacent to the ramp terminals. They were awarded \$1.4M from MARC. Before the design of that project, they needed to do an alternative analysis and look at future needs for the interchange. They considered different alternatives for the ultimate interchange improvement, and agreed that a diverging diamond interchange would be the appropriate solution for the traffic issues to fix problems at that location. They began design of phase one of the project, which is what is currently being worked on today. It relocates 191<sup>st</sup> Street to the north to intersect Gardner Road at 188<sup>th</sup> Street. It also adds signals at 188<sup>th</sup> Street. There will be signals at each of the ramp intersections with Gardner Road. Kansas Department of Transportation (KDOT) offered an additional \$2.51M to go toward the construction of the current project. McEldowney turned the presentation over to KDOT representatives to update on the interchange. Simon Sun, HDR project manager, and Steve Bass, KDOT road design project manager began a presentation illustrating the potential preliminary designs for the interim improvements and for the ultimate interchange configurations. They shared calendar timelines and potential project costs. The full presentation can be found here: <https://www.youtube.com/watch?v=i4U68UM3Y48>

Councilmember Gregorcyk noted the gas station, Phillips 66, is a long-standing business. He is concerned about the east entrance. Mr. Bass, KDOT, said they considered entrances close to the interchange and the amount of traffic along Gardner road to maintain the integrity of the interchange. They prefer to keep entrances as far back from the interchange as possible. This project proposes closing the access off Gardner Road. Mr. Sun, HDR, noted there is a raised median planned. Breaks in the median would present challenges from a traffic operations perspective. The median will prohibit turning movement until 188<sup>th</sup> St. This is how they preserve the operations, because there are safety concerns if drivers are trying to make left turns and conflicting movements. Mr. Sun showed the ultimate interchange configuration to illustrate the reason they need to close the driveway at during the interim configuration. There will be widening on Gardner Rd to accommodate targets. The ultimate configuration also has a median similar to the interim. The growth expected between 188<sup>th</sup> St and south through the interchange, the median needs to happen or there will be potential safety concerns. Mr. Bass said they are considering placing signals at the ramp terminals. Mr. Sun confirmed there will be traffic signals at both terminals. Gregorcyk clarified this will close the existing entrance off Gardner Rd, and the only entrance to that business would be to the west off Locust. Mr. Sun confirmed, the only entrance will be on Locust St. Gregorcyk said they have safety concerns at 191<sup>st</sup> and LPKC traffic coming off I-35 onto Gardner Rd and making left turns, however, he supports placing

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 22

March 1, 2021

temporary bollards to impede traffic making a left turn onto 191<sup>st</sup> St. Gregorcyk said the improvement is timely and much needed, but it's hard for him to see closing the entrance on S. Gardner Rd. He appreciated their explanation.

Councilmember Winters noted the financing illustrated in the presentation. The project is slated for 3 years in the future. The costs referenced, is that present-day costs or is inflation accounted for in numbers? Mr. Bass said HDR used current construction dollars on their estimate, but KDOT has an inflation rate it applies to projects that flow across fiscal years. The project costs are inflated out to fiscal year 2024.

Councilmember Baldwin appreciates designing for the ultimate interchange. For the interim configuration, the city is responsible for 10% of preliminary engineering and 12.5% of construction costs. Will there still be a similar ratio projected for the ultimate interchange configuration? The city will be looking at \$2.66M for the construction costs and \$190,000 for preliminary engineering. Mr. Bass said they haven't identified who is responsible for what at this time. KDOT has a local consult in place. If the project is of interest to the city and they want to gauge regional interest, KDOT encourages the city and others to bring this project to the local consult. That's what they are following currently. As mentioned previously, the ultimate configuration won't be needed for quite some time. Funding will be discussed in the future as they see the need for the ultimate diverging diamond configuration.

Councilmember Roberts agreed with Gregorcyk; she has concerns about blocking the business entrance. She understood why, but it's still a concern.

Mayor Shute stated concern about the timeframe. 2024 is a significant amount of time. The bridge is significantly degrading. Without some interim steps taken by KDOT, there may be accelerated degradation. Michael Rinehart, KDOT, said he has been on it, and they are well aware of its condition. They are in that situation with several bridges in Kansas. To bridge the gap from today to 2024, crews will be out in July to make deck repairs. The Locust St. project will necessitate a short closure of the bridge, and that is a good time for them to repair the deck. That won't guarantee there won't be other instances of deck delamination or more surface issues arising, but it provides an opportunity to address the rough areas. There may be other instances of surface issues arising, but they can repair the rough spots. They will monitor as needed. Shute noted the project schedule. He saw utility relocation taking a year. The advertisement of the construction is taking place at the very end of utility relocation. Is there any chance to accelerate the timeline? Mr. Bass said they looked at that when putting the schedule together. They condensed the design effort, and that's what is driving the schedule. After they get the plans 50% complete, they start right-of-way acquisition and utility relocations. Many times, the utilities want KDOT to acquire the ROW. In this case, some utilities may consider moving out to the eventual ultimate interchange location so they don't have to move twice. The schedules as presented are aggressive. ROW acquisitions can take 18 months to 2 years. They condensed it to a year. It would be very difficult to accelerate this schedule. Shute understood and appreciated the explanation. Safety is a significant issue. Traffic is going to increase in that area in the next two years. Shute asked if they can get temporary signals on the ramps to govern the traffic flow in the meantime. Councilmember Gregorcyk asked if have they done traffic studies at 191<sup>st</sup> and Gardner Rd. He estimates a high percentage of the traffic is coming or going to LPKC. If they controlled the entry/exit traffic, that may divert traffic south to the diverging diamond interchange that was built for LPKC and truck traffic. Mr. Bass said there have been discussions. When truck drivers come from the north and type in the address at LPKC, their mapping gives them the shortest route, which is Gardner Rd. He is unaware if KDOT has reached out to the mapping sites to have them rerouted. Shute said KDOT put a message board out because of the 199<sup>th</sup> St reconstruction directing trucks to use a different exit, and they have seen less truck traffic. Is there possibility to have signage on southbound I-35 directing trucks further south? It would be a big help and give them directional assistance. Michael Rinehart, KDOT, said they have a message board posted now, and would be willing to keep it posted there until the new interchange, if needed. Shute said it's a big help. They are still seeing trucks, but not as much. Baldwin noted during construction, they will have signals at the ramps. Will there be wires across those temporary poles that would have a height restriction precluding big trucks? City Engineer McEldowney said there will be temporary signals with the current phase. Each of the ramps will have signals on them, but they are designed to have maximum clearance. Shute said the signalization he referred to was between now and start of construction in 2024. McEldowney said the current Locust St. project has temporary signals at each ramp. Shute asked when they will be installed. McEldowney said they will be installed this summer.

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 23

March 1, 2021

He further explained they are for this project, and this project is to be done by the end of the year. City Administrator Pruetting asked if there has been any discussion about moving the weigh station and pushing trucks down further south. Mr. Rinehart is the metro engineer responsible for Johnson County said he's not heard any comment of moving the weigh station. Shute said it was part of the Southwest Johnson County Transportation Plan a while back. It was on consideration for moving because it had too small a footprint to be able to handle the additional truck traffic. Mr. Rinehart started in May, and hasn't heard any mention of it. It may predate him. Leroy Koehn, KDOT, said he's been there 3 years and has heard no discussion of moving weigh station, so it predates him as well. Shute said the last traffic plan was passed in 2013. Pruetting asked who they would speak with to bring this up. Mr. Rinehart said the consult process is coming up, and they could ask then. A KDOT representative said a big stakeholder in this would be the Kansas Highway Patrol and motor vehicle enforcement. Baldwin asked why the final design is 18 months, when the majority of it will be done during the preliminary design. Mr. Bass said the ROW acquisition and utility relocation is driving the back end of the schedule, including final design. They'll use that time to finish the final design.

Rocky Gupta, owner of Phillips 66, addressed concerns about traffic. QuikTrip will be coming soon, and truck traffic will increase because it's a big truck stop. He was shocked to learn of the closing of his entrance. When they went through the Locust St. easement, the attorneys made sure that access would stay open until the project is completed. They have an agreement in writing. That agreement also says that access will always be open as a right in/right out after the project is complete. Councilmember Winters noted the plans show it will be closed. Mr. Gupta said if they are closing it, they need to review the agreement. It's a major part of his business, which is why they negotiated for a year to make sure their business is not impacted. They can't accept that closure. Councilmember Baldwin understood the east access would stay through phase 1 while Locust and 191<sup>st</sup> are relocated, then close on phase 2. Mr. Gupta said they were only closing 191<sup>st</sup> St. access according to the agreement, and the east entrance was to remain open on right in/right out. City Attorney Denk said there were extensive negotiations as part of the ROW acquisition. He will follow up with legal counsel handling this.

Mukesh Goel, co-owner of Phillips 66, said there is a lot of truck traffic that comes into the business from this road. The bridge is deteriorating from trucks, so he doesn't understand why the city approved another truck stop next to them. It will only increase truck traffic. QuikTrip will be in before 2024. On top of hurting their business, now the city is closing their entrance in favor of large corporation. They have legal documents protecting them. They are a small business, and he's grateful to be in business in this city, but this is wrong. Mayor Shute asked how long have they had that station. Mr. Gupta said they owned the car wash 4 years ago, and bought the Phillips 66 3 years ago. Shute said that's when they were working with another design company. They are now charged to find a solution to help traffic flow and preserve the business. Mr. Goel said they have signed agreements by the city. It was agreed that this access would never be closed for at least right in/right out, even after completion of the ultimate project. City Engineer McEldowney said it goes back to previous owners of the property. At best, it would have been right in/right out when they got to the ultimate interchange. The goal with the first phase was to maintain a minimum of right in/right out and now they are going to maintain full access through the first phase. During the 2<sup>nd</sup> phase, they hoped to keep it as right in/right out. He said they will work with KDOT on possibility of maintaining the right in/right out throughout the 2<sup>nd</sup> phase. Shute said it sounds as if they have agreements that say they must. Councilmember Winters said he doesn't see how right in/right out would affect traffic drastically. Shute said the ultimate design would create an issue. Offsetting the entrance may be a possibility. They have an agreement that says they must preserve the right in/right out. They will need to discuss with KDOT and legal staff to preserve it. Councilmember Roberts is concerned that they have a legal agreement and a direction they promised, they can't change that. Councilmember Gregorcyk asked if there land available to put in a short right turn lane like QuikTrip has on Main St? Shute said with the interim diamond there may be, but on the final version there isn't. Gregorcyk said they have time to design in a right turn lane, and be partners with local business. Shute said staff will work on a solution.

### **3. 2020 End of Year Financial Report**

Finance Director Matt Wolff presented the 2020 year end unaudited financial report. Wolff noted that throughout this presentation, this is a budgetary performance, so he will be comparing actual data to the city's revised budget, also called the Estimate. General fund revenues were favorable to Estimate by 10.5% or \$1.37M. Expenditures



**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 24

March 1, 2021

were unfavorable to the Estimate by -2.8% or \$361,000. The fund balance was favorable to Estimate 38% compared to 32%. Staff estimated 2020 to end with \$4M fund balance, and they finished at \$5M. Sales tax and use taxes exceeded expectations due to strong performance from Gardner's mix of businesses, primarily grocery store, Walmart, fast food, which all performed strongly over the past year. The Coronavirus Relief Fund Grant was a large contributing factor to revenues exceeding the revised budget. Half of the city's revenues that exceeded budget were from grants. General fund expenditures were unfavorable to Estimate by -2.8% or \$361,000. \$400,000 unfavorable variance due to the pandemic; \$46,000 unfavorable to funding agreement expenditures; and \$85,000 favorable variance in general fund. Wolff explained that funding agreement expenditures are agreements with developers where a developer has a project and they request incentives and give the city a certain amount of money that the city can use to hire experts of the city's choosing to evaluate those projects. That can lead to budget variances because the city receives funding from the developer at the beginning of a project or the very end, and expenditures may occur in multiple years. 2020 ended with a budget surplus of \$1M. Although sales taxes have outperformed expectations, it is a volatile revenue source. The long-term effects of the pandemic are unknown at this point. They have experienced some slowdown in development activity. Historically, the city has targeted a fund balance of 20-30%. Staff recommends targeting a fund balance of 30% moving forward. In recent rating calls with S&P, keeping the fund balance close to 30% would be seen as favorable for the city's credit rating. In comparing fund balances over the years, they were \$3.8M in 2019, went up to \$5M at the end of the 2020, and the budget for 2021 projected an end-of-year fund balance of \$.39M. With the recommendation to keep it close to 30%, that would be \$4.3M. Staff suggests using the \$1M surplus to ensure they retain a strong fund balance at the end of the year. Electric fund revenues were unfavorable by 0.9% or \$179,000. Fund balance to Estimate was up to 79% as compared to the 76% estimated. They ended with a \$14.2M fund balance. They have \$3.1M in the electric capital reserve fund. The revenue difference was mostly in retail sales and residential distribution installations, but was offset slightly by higher than anticipated revenues from Dogwood. Expenses overall had a favorable variance of approximately \$803,000 in savings and operational expenses. Most was due to wholesale electric purchasing. These savings are offset by an unfavorable variance of \$458,000 in capital projects (Shean's backfeed, part of the Prairie Trace project, additional costs for smart meters, and CO2 protection). At end of year 2019, they were at \$12.4M, and were estimating at the end of 2020 to be \$14M. They ended at \$14.2M. Staff does plan to pay \$1.5M for electric infrastructure improvements for Prairie Trace development, which will bring them back to the 2019 level of fund balance. In the water fund, the revenue was favorable to the Estimate by 1.5% or \$492,000. Expenses were unfavorable by -0.48% or \$355,000. Retail sales exceeded expectations by \$279,000. The water utility received a SMAC grant for \$422,000 for the Santa Fe project. System development fees did not meet expectations. It had unfavorable variance of \$180,000. There is a negative variance in expenses due to capital projects, like replacing water lines in conjunction with the Santa Fe project that was not originally in the project budget. The 2019 end of year fund balance was negative \$20M due to a timing issue between the cost of the water treatment plant and receipt of bonds. They estimated the revised budget to end at \$4.5M and they ended 2020 at \$4.6M. Wolff noted the 60% fund balance looks high, but will decrease over time due to debt service for the water treatment plant. In wastewater fund, revenues were unfavorable to budget by 27.8% or \$2.5M. Expenses were favorable by 19% or \$1.6M. The fund balance was unfavorable to the budget at 22% as compared to 28%. The variance on the revenue side is primarily due to \$1.8M in bond proceeds that were planned for 2020, but the issue was delayed to 2021. Wastewater operating revenues had a negative variance of \$211,000 and system development fees were at a negative variance of \$400,000. \$1.48M of the expense savings is due to several delayed capital projects. They incurred \$846,000 for Prairie Trace sewer improvements in 2020 that offset some savings from delayed projects. The fund balance was \$1.9M in 2019, and it has dropped to \$1.5M.

Wolff summarized, stating the general fund is above the 30% target at 38% fund balance, or \$1M higher than the original budget at \$5M in fund balance. The electric fund is robust, with about \$14.2M in fund balance in the electric fund and \$3.1M in the capital reserve fund. The water fund is adequate. It has a large percentage fund balance currently, but will deplete quickly over time to the water treatment plant. The wastewater fund requires further discussion because it is unable to maintain anticipated capital costs and planned debt service. Operating revenues have been stagnant in recent years. Anticipated capital costs have increased significantly since the rate study. Wolff

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 25

March 1, 2021

said he will present a CIP update next month. This will set a stage for a more engaged discussion on infrastructure and financial planning. Sewer improvements and streets will be a focal point of that discussion

Councilmember Gregorcyk appreciated the thoroughness. He looks forward to the infrastructure discussion.

Councilmember Baldwin noted the infrastructure update on CIP is coming up quickly, but he suggests a worksession on infrastructure. Director Wolff said he plans to have the worksession at the 2<sup>nd</sup> meeting in April.

Mayor Shute said they have decisions to make for long-term planning.

**PUBLIC HEARINGS**

**PUBLIC COMMENTS**

No members of the public came forward.

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the regular meeting on February 15, 2021**
2. **Standing approval of City expenditures prepared February 12, 2021 in the amount of \$1,633,575.86; and February 19, 2021 in the amount of \$580,011.02**
3. **Consider authorizing the execution of a contract with Enright Lawns for annual mowing of Parks and Recreation areas**
4. **Consider accepting the dedication of right-of-way easement on Main Street**
5. **Consider accepting the dedication of right-of-way easements for the I-35 and Gardner Road Interchange Project**
6. **Consider authorizing the execution of a supplemental agreement with the Kansas Department of Transportation to construct improvements for the I-35 and Gardner Road project**
7. **Consider authorizing the execution of an agreement with BHC Rhodes to provide engineering services to update the City's Technical Specifications**
8. **Consider authorizing the execution of an agreement with the Kansas Governor's Grant Program for the Services/Training/Officers/Prosecutors Violence Against Women Act (S.T.O.P. VAWA) Grant**

Councilmember Winters asked to remove item 7 from the Consent Agenda.

Councilmember Deaton made a motion to approve items 1-6 and 8 on the Consent Agenda.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

***Discussion of Consent Agenda Item 7, Consider authorizing the execution of an agreement with BHC Rhodes to provide engineering services to update the City's Technical Specifications***

Councilmember Winters spoke with City Administrator Pruetting about this, but asked him to clarify because it's more consulting fees. Is it something they can do in-house or hire the position? City Engineer McEldowney said the current specs go back to 2007 and have needed to be updated for a number of years. Staff has been unable to dedicate time to it. KDHE is demanding the water and wastewater specs be updated for them to continue to reviewing and approving plans. In addition to updating the specs, staff is asking them to look at design criteria and update standard drawings. Another item is making sure all city codes and land development codes that were added are in agreement. Currently there are items that are not in agreement with the city's codes. They are grouping more than just specifications.

Councilmember Roberts asked if this is something the new deputy CA can do to reduce consulting. Pruetting said there's a technical knowledge that's needed to do this. Mayor Shute said they would work with staff to identify

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 26

March 1, 2021

points of conflict and make changes. Pruetting noted KDHE will require sign-off. Shute identified Public Works Director Headlee and noted concerns about staffing. Is there additional staffing coming on board? Pruetting said they had filled the two engineer positions.

Councilmember Winters made a motion to approve Consent Agenda item 7, authorize the City Administrator to execute an agreement with BHC Rhodes to provide engineering services to update the City's Technical Specifications in an amount not to exceed \$62,552.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**PLANNING & ZONING CONSENT AGENDA**

**1. Consider accepting the dedication of right-of-way and easements and approving FP-20-02, a corrective final plat for Prairie Trace Meadows 1<sup>st</sup> Plat**

Councilmember Gregorcyk made a motion to approve the Planning & Zoning Consent Agenda.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**COMMITTEE RECOMMENDATIONS**

**OLD BUSINESS**

**NEW BUSINESS**

**1. Consider selecting a Vice-President of the Council**

Mayor Steve Shute said the Governing Body Rules of Procedure dictate that a president and vice president shall be appointed from members of the City Council by a majority vote. The Council President presides at meetings when the Mayor is temporarily absent due to travel, illness, etc. If both the Mayor and Council President are temporarily absent, the Council Vice-President presides. Former councilmember Rich Melton held the position of Council Vice-President. Shute said he will take nominations from the floor and then they will vote. Councilmember Roberts nominated Councilmember Gregorcyk. Shute asked for a second. Seeing none, the nomination failed. Councilmember Winters nominated Councilmember Baldwin; Councilmember Deaton seconded the nomination. Shute asked for any other nominations. Receiving none, he closed the nominations and asked for a motion

Councilmember Deaton made a motion to appoint Councilmember Baldwin as Vice-President of the Council.

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**2. Consider adopting a resolution authorizing the City to construct certain main trafficways and authorizing the issuance of General Obligation Bonds of the City to pay the costs thereof**

Finance Director Matt Wolff said at the last council meeting, the governing body approved the US 56 City-State agreement where the city is partnering with KDOT to make improvements to Main Street. The city plans to issue general obligation bonds in the amount of \$2.21M to finance its portion of the project. Annual debt service will be paid from the special highway fund.

Councilmember Baldwin made a motion to adopt a resolution authorizing the City of Gardner, Kansas, to construct improvements to certain main trafficways and authorizing the issuance of general obligation bonds of the City to pay the costs thereof, all pursuant to K.S.A. 12-685 et seq.

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 27

March 1, 2021

Councilmember Gregorcyk Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2079.

Baldwin:	Yes
Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes

**3. Consider approval of the 2021 State Legislative Agenda**

Deputy City Administrator Amy Nasta said the purpose of the State Legislative Agenda is to provide City Council and staff with a list of legislative topics that are of particular interest to follow for the City. By outlining the agenda, both Council and staff will be prepared to respond to legislators and professional organizations regarding the impact proposed legislation has on the City of Gardner. By participating in this process, the City is pursuing legislative policies that seek to enhance the efficiency and effectiveness of local government operations for Gardner. The City's legislative agenda incorporates the joint City/County platform to assert common positions to state legislatures. The County is requesting this practice continue.

In the CAF, there is a list of the items. There have been minimal changes this year from last year. Johnson County's platform did not change substantially as well. Most have been in nomenclature or cleaning up language, which was done at the County as well.

Councilmember Deaton looked back a few years, and the last two times it was discussed that the city wasn't doing enough to push Gardner's agenda. They were going to have meetings for Gardner-specific issues with legislators. Did that happen last year? Nasta said that was impacted by COVID, but there are plans moving forward. They are able to attend meetings and infrastructure has been set up to attend virtually when there is opportunity. Shute said they knew that would be a shortfall this year because the Capitol was reducing capacity. They do have the intention to lobby for the city's interest more in the coming years.

Councilmember Baldwin noted his dislike of the document. Their representatives are not beholden to Gardner; they are beholden to their constituents. The representatives should be hearing from the people, not this body. The body was not elected to represent the people at the state level. Anything they need to do with the state, they already do, as seen tonight with KDOT.

Mayor Shute noted transportation issues, Section 3, Bullet E – new sources of revenue to increase transportation funding with regard to the property tax lid. They have had transportation discussions. This is about new motor fuel taxes, taxes on electric and hybrid vehicles, new license under registration fees, vehicle weight fees and other revenue sources. Many people locally aren't aware of funding issues at KDOT. Without revenues to support construction, they are looking for options and opportunities to enhance funding sources. They are not pushing for higher taxes, but trying to keep KDOT solvent to be able to fix roads.

Councilmember Roberts made a motion to approve the 2021 State Legislative Agenda for the City of Gardner.

Councilmember Deaton Seconded.

With a majority of the Councilmembers voting in favor of the motion, the motion carried. (Baldwin – No)

**COUNCIL UPDATES**

Director Wolff provided a background of recent weeks. They experienced a prolonged cold snap that affected a large region of the country. It created an energy crisis, which led to a large spike in natural gas and electric prices. Kansas declared a state of natural disaster. There was a large increase in the price to purchase power. In 2020,

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 28

March 1, 2021

power costs for the 3<sup>rd</sup> week in February was \$65,000. In 2021, the 3<sup>rd</sup> week of February cost \$5.5M. When the city is invoiced, there are adjustments made. Dogwood did power up temporarily, so that was an adjustment made that lowered the estimated cost to the city to \$4.5M. The city's rate structure has a service charge and base rate that are both fixed, but like other utilities, the city has a Power Cost Adjustment (PCA). This gives utilities an ability to spread out the cost of purchasing over a 12-month period. The \$4.5M cost will result in an estimated increase of about 2.5 cents for every kilowatt-hour of energy consumed. The average residential user may see an estimated increase of \$10 on their March bill, \$18.50 on their April bill, and over the period of March through December, a cumulative total of approximately \$275. High consumption residential users, like all-electric users, could see an increase of \$55.70 in March, \$66.30 in April, and a cumulative total March through December of \$562.25. Average commercial users may see an estimated increase of \$45 in March, \$84.40 in April, and a cumulative total March through December of \$882.25. Medium consumption commercial users, like big box stores, may see an estimated increase of \$504 in March, \$1038 in April, and a cumulative total March through December of \$12,000. High consumption commercial users, like industrial users, may see an estimated increase of \$1,500 in March, \$1,846 in April, and a cumulative total March through December of \$21,000.

Councilmember Winters had questions on the city's generators and asked for an explanation of why those weren't fired up. Director Garcia said the two gas turbines are dual fuel; they may burn natural gas and diesel. In the past 20 years, they have only burned gas. During the energy crisis, gas was not available for generation. Mayor Shute noted that natural gas was the driver for the increases affecting the Midwest. Director Wolff said natural gas spiked in price, and is often used to generate electricity, so that spiked too. Anyone buying from the national grid was affected. Shute noted that same natural gas is used to heat homes. Garcia said the price of gas prior to February 15 was \$2.93. At the peak of the crisis, it was \$629. Councilmember Gregorcyk asked, based on the commodity price, what would have been the cost of generating? Garcia said it would have cost \$4M per day to run the city's generators. They are high heat rate units, using 15,000 BTU per kilowatt-hour. Shute noted there are other cities that have their own natural gas utility, and some are unincorporating over this crisis. The financial emergency is affecting every community that has city utilities. Gardner has a robust electric fund, but will need to discuss if they will use it. Shute asked if that is a discussion council wants to have. Roberts and Winters agreed. Councilmember Baldwin said any discussion they have is premature. They have seen estimates for the PCA increase, but they don't know what the long-term effects will be. There are power-sourcing entities going bankrupt. There will be a ripple effect and they shouldn't act immediately. The numbers seen tonight are not pretty, but it could have been worse. If they do something, he would oppose the one-time credit like last spring. The numbers tonight would be for a PCA increase, they could adjust their rates to bring it down. It would not be a one-time stimulus, more a discount or coupon for a rolling period. Shute asked for consensus to review the rates outside the rate study for the next 12 months? Baldwin noted the rate study is coming up soon, and they should wait for it and delay the discussion. They should consider the 10-year forecast. They could then consider a rate change over 5 years. Shute noted the residential all-electric is the group being affected the most. Can they discuss how to address that? Baldwin said what they do would be long-term and won't change anything tomorrow. All-electric did suffer, but don't discount the rest of the residents who heat with gas; their gas bills will go up. Winters said they need to wait to some degree, but he is in favor of using that money sooner than later, before the rate study, but after analyzing. He doesn't support a free month, but building some of the reserve to offset the immediate need. Baldwin said staff need to do due-diligence, and they should form a subcommittee to bring options. Shute said the UAC would be the pace to start. Gregorcyk suggests that as well. Costs and credits have not all arrived; it's a volatile commodity. Shute tasked staff to look at options and get the UAC involved. Baldwin said the next UAC meeting is Thursday at 7pm. Shute said the meetings are open to the public and held at city hall. Citizen involvement is important. Wolff extended his thanks to Business Services Manager Amy Foster for her work on this.

City Clerk Rose said she has received several applications for the Planning Commission opening. Mr. Melton was previously on the interview board for PC and Citizens Police Advisory Committee, so his interview position will need to be filled. Mayor Shute asked Councilmember Gregorcyk to sit in on Planning Commission. Gregorcyk agreed. Shute said Councilmember Deaton should be on the interview team for CPAC. Shute also noted that Mr. Melton was the council representative on the CPAC. Deaton previously served as the chair of CPAC. Shute



**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 29

March 1, 2021

asked for consensus to place Deaton on CPAC. Consensus achieved. Councilmember Roberts asked if she had a committee. Shute noted Roberts is on the Public Works committee. Councilmember Baldwin noted it wasn't full, and they haven't met. Rose noted the committee is full now. Shute said they need to get a Public Works Accessibility Advisory Committee meeting set up.

Chief Belcher said they have a CPAC meeting on March 8, 7pm at the Justice Center.

Director Bruce said they had a modified daddy/daughter date night last weekend. It was successful. Staff did a great job planning and organizing, and they had a great turnout.

Director Knopick reported they had an Economic Development Advisory Committee meeting last week. They have a good group of people serving. They will have another meeting on March 10 with a speaker.

City Administrator Pruetting Introduced Public Works Director Kellen Headlee. He came to the city after 20 years in the Navy. He will be a valuable member of staff.

Director Headlee said he recently retired from the US Navy as a civil engineer corps officer doing public works for the Navy, so it is a natural progression to a civilian career. He is excited to be here and looking forward to learning what he can do to move the city forward.

City Administrator Pruetting said City Attorney Denk found the agreement with Phillips 66 that does show they have access on the east entrance, and staff will work with KDOT on that.

Mayor Shute addressed discussions on social media regarding comments he made on electric rates. It was his intention to provide more information on a thread that was started on a facebook page. Those comments were his own, not sanctioned by the city. He apologized for concerns that may have been expressed by his speaking out of turn. He will make sure going forward those comments are made through appropriate channels through City Administrator and PIO. Additionally, there was concern about Shute issuing a letter of personal recommendation on mayoral letterhead to an individual for character reference. That was also his own doing, and he has done that before when asked. That may have caused angst for some, so he is willing to have checks and balances and run such requests through the governing body if they choose. Councilmember Baldwin doesn't believe it's necessary. Winters doesn't either. Councilmember Roberts is okay with it, but said it was his personal opinion and shouldn't have been on mayoral letterhead. Shute said it's the mayor letterhead and not the city. He was speaking for himself, and not the city. Councilmember Gregorcyk said they have a public information officer that could help out in that arena, in support of the mayor.

Councilmember Roberts said it is Chief Belcher's birthday today, and Director Headlee's birthday tomorrow. She wishes them happy birthday.

Councilmember Gregorcyk asked Director Bruce if staff will be opening the pool for 2021. Bruce said they should receive guidelines and recommendations from Johnson County for area agencies in mid-March. Gregorcyk said the daddy/daughter date was great, the movie was good, theater was great, and it was a great night. He appreciates staff for what they did to make that a special night. Gregorcyk appreciated Director Knopick getting the EDAC together. There are new faces with solid backgrounds. Gregorcyk noted the Aspen Creek neighborhood park and trail space. It's going before Planning Commission soon. He noted they need to understand that the community is worried about the safety of their children, and need to make sure it aligns with the parks master plan. City Administrator Pruetting said staff met yesterday to discuss it. There is a trail in the open space as required by the Land Development Code. They are working with the developer. The HOA owns open space between Gardner road and west edge of property. They will have it worked before Planning Commission.

Councilmember Winters extended his thanks to parks staff for a great event.

Mayor Shute said the entire Midwest experienced a significant crisis, and the situation is still volatile. The governor's office is pushing to declare a financial state of emergency for federal assistance. City staff has been working hard to keep things going. Public Works will be moving forward on 56 Highway.

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2021 - 30

March 1, 2021

Councilmember Gregorcyk asked to address the governing body. He said in December 2019, they passed resolution to move newspaper of record from *Gardner News* to the *Legal Record*. He asked if there's interest in reversing the resolution. Councilmember Roberts would be open to discuss it. Councilmember Baldwin asked if there's new information that changes what they did in 2019? Gregorcyk said as elected officials, they have always said shop locally, buy locally. The city isn't doing that in this case. Councilmember Winters said it was a difficult decision, but the cost difference was so large, he couldn't justify the difference in expense. He wants to support, and if the numbers were close, there would be no question. Roberts said they represent the people, and she received far more comments to keep Gardner News. They knew it would cost more, but more people reached out to keep it. She is still for it, because of the feedback she received. Councilmember Deaton wasn't on the council then, but financial, it was a large difference. She supports buying local and staying local. The city has a policy in place to keep purchasing local within a cost percentage. If something has changed financially, she would be willing to discuss, as long as they adhere to the city's policies. Mayor Shute said they don't have consensus on this. If the newspaper is willing to work with the city on pricing, they can look at it. Gregorcyk said they should look at an alternative funding mechanism that would support shopping locally. He can work with Pruetting, but he thinks they should look again in the spirit of buying local. Roberts said someone from the funeral home contacted her. The people using the funeral home post obituaries. Obituaries are increasingly expensive in other area newspapers. Local residents that use the funeral home use the Gardner News to post obituaries. If the newspaper closes, it will be more difficult for them to publish obituaries and have that resource. This affects other businesses. Baldwin suggested this could be discussed in the EDAC. Gregorcyk plans to bring it up with the committee.

**ADJOURNMENT**

There being no further business to come before the Council, on a motion duly made by Councilmember Winters and seconded by Councilmember Baldwin the meeting adjourned at 9:17 p.m.

---

City Clerk

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0005065 57188982	00	ACCOUNTEMPS 000861	00	02/26/2021	001-1310-413.31-15	DENE W/E 2/19/21	EFT:	1,023.31
VENDOR TOTAL *							.00	1,023.31
0003954 39524	00	AMERICAN PAYMENT CENTERS, LLC 000862	00	02/26/2021	604-1320-413.44-02	QUARTERLY DROP BOX RENTAL	EFT:	312.00
VENDOR TOTAL *							.00	312.00
0001986 4823033-02 4840643-00 4843837-01 4843837-02 4843837-03 4850742-00	00	ANIXTER, INC. 000921 000922 000923 000924 000925 000926	00	02/26/2021 02/26/2021 02/26/2021 02/26/2021 02/26/2021 02/26/2021	501-4130-441.52-31 501-4130-441.52-25 501-4130-441.52-31 501-4130-441.52-31 501-4130-441.52-31 501-4130-441.52-31	HARDWARE HARDWARE HARDWARE HARDWARE HARDWARE HARDWARE	EFT: EFT: EFT: EFT: EFT: EFT:	2,605.51 2,955.83 98.29 1,172.67 68.18 704.67
VENDOR TOTAL *							.00	7,605.15
0002420 BMS797232 BMS776311 BMS777438 BMS777437	00	BRENNTAG MID-SOUTH, INC PI0123 007584 PI0131 007584 PI0132 007588 PI0133 007589	00	02/17/2021 01/20/2021 01/20/2021 01/20/2021	521-4220-442.52-13 521-4220-442.52-13 521-4220-442.52-13 521-4220-442.52-13	SODIUM PERMANGANATE SODIUM PERMANGANATE HYDROFLUOROSILICIC ACID ROBIN 110	EFT: EFT: EFT: EFT:	2,677.50 2,677.50 902.00 966.00
VENDOR TOTAL *							.00	7,223.00
0000347 104290-27	00	BURNS & MCDONNELL PI0135 007260	00	02/15/2021	130-3130-431.62-04	PROFESSIONAL SERVICES	EFT:	82,126.76
VENDOR TOTAL *							.00	82,126.76
0004628 90114240 90110678	00	CALGON CARBON CORPORATION PI0127 007586 000918	00	01/08/2021 02/26/2021	521-4220-442.52-13 521-4220-442.52-13	CARBON CARBON	EFT: EFT:	3,499.20 3,499.20
VENDOR TOTAL *							.00	6,998.40
0000001 314105759 313440714	00 0221 0221	CENTURYLINK 000927 000863	00	02/26/2021 02/26/2021	521-4220-442.40-03 551-4520-445.40-03	MONTHLY BILLING MONTHLY BILLING	54.24 215.30	
VENDOR TOTAL *							269.54	
0003481 817000074-21 817000032-21	00	DPC INDUSTRIES INC PI0129 007585 PI0130 007587	00	01/06/2021 01/06/2021	521-4220-442.52-13 521-4220-442.52-13	CHLORINE AMMONIUM SULFATE	EFT: EFT:	643.00 1,140.00
VENDOR TOTAL *							.00	1,783.00
0004996 02242021	00	FLEX MADE EASY 000928	00	02/26/2021	721-0000-202.03-11	CONTRIBUTIONS	EFT:	1,149.98
VENDOR TOTAL *							.00	1,149.98
0004833 02202021	00	GARDNER POST OFFICE 000929	00	02/26/2021	001-1120-411.47-04	USPS MARKETING MAIL FEE	245.00	
VENDOR TOTAL *							245.00	
0000013	00	HACH COMPANY						

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000013 12303329	00	HACH COMPANY PI0120 007596	00	01/29/2021	521-4220-442.52-12	UV SPECTROPHOTOMETER	EFT:	9,610.85
						VENDOR TOTAL *	.00	9,610.85
0002095 1200328884	00	HDR ENGINEERING, INC PI0121 007570	00	02/19/2021	001-3130-431.31-10	ON CALL TRAFFIC	EFT:	852.83
						VENDOR TOTAL *	.00	852.83
0005013 W288469	00	HSA BANK 000907	00	02/26/2021	001-1140-411.31-15	HSA SERVICE FEE	CHECK #: 131	108.50
						VENDOR TOTAL *	.00	108.50
0000102 492639	00	ICMA RETIREMENT TRUST - 457 000919	00	02/25/2021	721-0000-202.03-04	CONTRIBUTIONS	CHECK #: 101	7,539.23
						VENDOR TOTAL *	.00	7,539.23
0000777 02102021	00	JOHNSON COUNTY MENTAL HLTH CTR 000864	00	02/26/2021	125-1120-411.49-04	ALCOHOL TAX FUND	EFT:	5,900.00
						VENDOR TOTAL *	.00	5,900.00
0002671 105901600	00 0221	KANSAS GAS SERVICE 000865	00	02/26/2021	551-4520-445.40-04	MONTHLY BILLING	1,261.84	
						VENDOR TOTAL *	1,261.84	
0001439 41459	00	KANSAS JUDICIAL COUNCIL 000866	00	02/26/2021	001-1330-413.46-02	KS MUNICIPAL COURT MANUAL	45.00	
						VENDOR TOTAL *	45.00	
0000332 R1210301110858	00	KANSAS STATE TREASURER 000908	00	02/26/2021	531-9100-491.71-02	2012C	CHECK #: 100	29,500.00
						VENDOR TOTAL *	.00	29,500.00
0000331 C20172101-22621000909	00	KDHE - BUREAU OF WATER 000909	00	02/26/2021	531-9100-491.71-01	BULL CREEK I	CHECK #: 110	77,240.84
C20172101-22621000910			00	02/26/2021	531-9100-491.71-02	BULL CREEK I	CHECK #: 110	14,155.51
C20172101-22621000911			00	02/26/2021	531-9100-491.71-03	BULL CREEK I	CHECK #: 110	1,474.53
C20195601-22621000912			00	02/26/2021	531-9100-491.71-01	BBCWWTP	CHECK #: 110	233,731.46
C20195601-22621000913			00	02/26/2021	531-9100-491.71-02	BBCWWTP	CHECK #: 110	75,349.84
C20195601-22621000914			00	02/26/2021	531-9100-491.71-03	BBCWWTP	CHECK #: 110	9,189.00
						VENDOR TOTAL *	.00	411,141.18
0002489 1583428	00	KPERS 000919	00	02/25/2021	721-0000-202.03-05	022521 PAY PERIOD	CHECK #: 112	754.86
1583429		000919	00	02/25/2021	721-0000-202.03-01	022521 PAY PERIOD	CHECK #: 112	112.33
1583432		000919	00	02/25/2021	721-0000-202.03-01	022521 PAY PERIOD	CHECK #: 112	43,605.91
						VENDOR TOTAL *	.00	44,473.10
0003568 1583439	00	KPERS RETIREMENT 000919	00	02/25/2021	721-0000-202.03-03	022521 PAY PERIOD	CHECK #: 118	232.42
						VENDOR TOTAL *	.00	232.42
0002490	00	KPF						

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0002490 1583426 1583437	00	KPF 000919 000919	00	02/25/2021 02/25/2021	721-0000-202.03-05 721-0000-202.03-02	022521 PAY PERIOD 022521 PAY PERIOD	CHECK #: CHECK #:	113 113 118.97 29,766.95
VENDOR TOTAL *							.00	29,885.92
0004949 L89559	00	LEGAL RECORD, THE 000915	00	02/26/2021	531-4340-443.63-17	LEGAL NOTICE-BID ANNOUNCE	EFT:	33.96
VENDOR TOTAL *							.00	33.96
0004957 2021039 2021039	00	NEXGRID, LLC PI0125 007595 PI0126 007595	00	02/09/2021 02/09/2021	501-4140-441.62-15 501-4140-441.63-73	SMART METERS-DIST. SWITCH ELECTRIC SMART METERS	EFT: EFT:	1,082.00 117,736.34
VENDOR TOTAL *							.00	118,818.34
0004098 5484642	00	PALMER JOHNSON POWER SYSTEMS, LLC PI0122 007572	00	02/19/2021	501-4120-441.31-15	CONVERTER INSPECT & REBUI	10,195.28	
VENDOR TOTAL *							10,195.28	
0001569 INV01940299	00	PAYCOR, INC 000919	00	02/24/2021	001-1310-413.31-15	PAYROLL SERVICES	CHECK #:	107 516.47
VENDOR TOTAL *							.00	516.47
0004839 525028	00	PINNACLE PROPANE 000916	00	02/26/2021	001-3120-431.52-09	PROPANE REFILL	EFT:	676.00
VENDOR TOTAL *							.00	676.00
0000946 2935	00	RIGHT-WAY JANITORIAL INC PI0124 007594	00	02/03/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	9,537.62
VENDOR TOTAL *							.00	9,537.62
0004942 05598-640481	00	SAFELITE FULFILLMENT INC 000867	00	02/26/2021	001-3120-431.43-05	WINDSHIELD REPAIR	EFT:	349.97
VENDOR TOTAL *							.00	349.97
0004179 02122021	00	SHELTON, BILL ALAN 000868	00	02/26/2021	551-4520-445.31-15	SNOW REMOVAL-AIRPORT	500.00	
VENDOR TOTAL *							500.00	
0005082 40424	00	SMITH AND BOUCHER, INC 000905	00	02/26/2021	001-1120-411.31-15	HVAC	4,530.00	
VENDOR TOTAL *							4,530.00	
0001709 403233312-230 403233312-230 403233312-230 403233312-230 403233312-230 403233312-230 403233312-230	00	SPRINT 000869 000870 000882 000887 000891 000892 000889	00	02/26/2021 02/26/2021 02/26/2021 02/26/2021 02/26/2021 02/26/2021 02/26/2021	001-1120-411.40-03 001-1140-411.40-03 001-1305-413.40-03 001-3110-431.40-03 001-3116-431.40-03 001-3116-431.52-20 001-3120-431.40-03	MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING MONTHLY BILLING	EFT: EFT: EFT: EFT: EFT: EFT: EFT:	39.17 56.47 49.17 10.00 49.17 364.27- 196.68



VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0001709	00	SPRINT						
403233312-230	000890		00	02/26/2021	001-3120-431.52-20	MONTHLY BILLING	EFT:	1,457.07-
403233312-230	000888		00	02/26/2021	001-3130-431.40-03	MONTHLY BILLING	EFT:	78.34
403233312-230	000885		00	02/26/2021	001-6105-461.40-03	MONTHLY BILLING	EFT:	245.02
403233312-230	000886		00	02/26/2021	001-6120-461.40-03	MONTHLY BILLING	EFT:	269.45
403233312-230	000872		00	02/26/2021	001-7110-471.40-03	MONTHLY BILLING	EFT:	56.63
403233312-230	000873		00	02/26/2021	001-7120-471.40-03	MONTHLY BILLING	EFT:	134.81
403233312-230	000874		00	02/26/2021	001-7120-471.52-20	MONTHLY BILLING	EFT:	728.54-
403233312-230	000875		00	02/26/2021	501-4110-441.40-03	MONTHLY BILLING	EFT:	173.98
403233312-230	000877		00	02/26/2021	501-4120-441.40-03	MONTHLY BILLING	EFT:	189.04
403233312-230	000876		00	02/26/2021	501-4130-441.40-03	MONTHLY BILLING	EFT:	154.64
403233312-230	000881		00	02/26/2021	521-4220-442.40-03	MONTHLY BILLING	EFT:	115.64
403233312-230	000884		00	02/26/2021	521-4220-442.40-03	MONTHLY BILLING	EFT:	10.00
403233312-230	000880		00	02/26/2021	521-4230-442.40-03	MONTHLY BILLING	EFT:	27.30
403233312-230	000879		00	02/26/2021	531-4320-443.40-03	MONTHLY BILLING	EFT:	120.90
403233312-230	000878		00	02/26/2021	531-4330-443.40-03	MONTHLY BILLING	EFT:	127.51
403233312-230	000883		00	02/26/2021	602-1340-413.40-03	MONTHLY BILLING	EFT:	562.17
403233312-230	000871		00	02/26/2021	603-3150-431.40-03	MONTHLY BILLING	EFT:	39.17
403233312-230	000893		00	02/26/2021	604-1320-413.40-03	MONTHLY BILLING	EFT:	230.11
VENDOR TOTAL *							.00	385.49
0001566	00	STAPLES BUSINESS ADVANTAGE						
8061130656	000895		00	02/26/2021	001-1330-413.52-20	OFFICE SUPPLIES	EFT:	206.39
8061130672	000894		00	02/26/2021	001-2110-421.52-20	OFFICE SUPPLIES	EFT:	113.36
VENDOR TOTAL *							.00	319.75
0004785	00	SUMNERONE, INC						
2779170	000896		00	02/26/2021	602-1340-413.43-02	MONTHLY BILLING	EFT:	182.98
VENDOR TOTAL *							.00	182.98
0004984	00	SUPERIOR EXCAVATING, LLC						
8-WW1902	PI0128 007573	00	02/13/2021	403-4330-443.62-10	CHANGE ORDER 1		EFT:	6,805.26
VENDOR TOTAL *							.00	6,805.26
0002969	00	TREKK DESIGN GROUP LLC						
21-000049	PI0134 006842	00	02/22/2021	531-4310-443.31-15	I&I REDUCTION PROGRAM		11,703.50	
VENDOR TOTAL *							11,703.50	
0002660	00	UNITED COMMUNITY SERVICE- ATF						
02112021	000915		00	02/26/2021	125-1120-411.49-04	ALCOHOL TAX FUND	EFT:	968.00
VENDOR TOTAL *							.00	968.00
0000238	00	USA BLUE BOOK						
508623	000917		00	02/26/2021	521-4220-442.52-12	ECO-FLAT SWITCH CABLE	EFT:	53.95
VENDOR TOTAL *							.00	53.95
0005079	00	WALFAB MACHINE SHOP						
19939	000897		00	02/26/2021	501-4120-441.43-02	GUIDE RODS-TURBINE REPAIR	EFT:	125.00
VENDOR TOTAL *							.00	125.00
0003221	00	WEX BANK						

VEND NO	SEQ#	VENDOR NAME						EFT, EPAY OR
INVOICE		VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK
NO		NO	NO		DATE	NO	DESCRIPTION	AMOUNT
								HAND-ISSUED
								AMOUNT
0003221	00	WEX BANK						
70083464		000898		00	02/26/2021	501-4120-441.52-09	FUEL	EFT: 296.89
70083464		000899		00	02/26/2021	501-4130-441.52-09	FUEL	EFT: 1,838.36
70083464		000900		00	02/26/2021	521-4220-442.52-09	FUEL	EFT: 319.62
70083464		000903		00	02/26/2021	521-4230-442.52-09	FUEL	EFT: 961.01
70083464		000901		00	02/26/2021	531-4320-443.52-09	FUEL	EFT: 695.73
70083464		000902		00	02/26/2021	531-4330-443.52-09	FUEL	EFT: 286.32
							VENDOR TOTAL *	.00 4,397.93
							HAND ISSUED TOTAL ***	523,396.82
							EFT/EPAY TOTAL ***	267,239.53
							TOTAL EXPENDITURES ****	28,750.16 790,636.35
							GRAND TOTAL *****	819,386.51



VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004265 8635856	00	ACCESS INFORMATION PROTECTED 000995	00	03/05/2021	001-1150-411.31-15	MONTHLY BILLING	1,055.87	
VENDOR TOTAL *							1,055.87	
0000350 8185	00	AFFINIS CORP. PI0143 006982	00	03/01/2021	130-3130-431.62-04	CONSULTING SERVICES	EFT:	30,950.00
VENDOR TOTAL *							.00	30,950.00
0004340 69184	00	ALL CITY MANAGEMENT SERVICES INC 000933	00	03/05/2021	001-2110-421.31-15	CROSSING GUARD CONTRACT	EFT:	2,410.24
VENDOR TOTAL *							.00	2,410.24
0004642 8503	00	ALLIED POWER GROUP, LLC PI0144 007566	00	02/28/2021	501-4120-441.31-15	CONVERTER REMOVE & INSTAL	EFT:	43,134.00
VENDOR TOTAL *							.00	43,134.00
0005073 6098840	00	AMERICAN MESSAGING SERVICES 000938	00	03/05/2021	001-3120-431.40-03	MONTHLY BILLING	EFT:	8.24
6098840		000936	00	03/05/2021	521-4220-442.40-03	MONTHLY BILLING	EFT:	36.32
6098840		000934	00	03/05/2021	521-4230-442.40-03	MONTHLY BILLING	EFT:	4.39
6098840		000937	00	03/05/2021	531-4320-443.40-03	MONTHLY BILLING	EFT:	49.76
6098840		000935	00	03/05/2021	531-4330-443.40-03	MONTHLY BILLING	EFT:	4.39
VENDOR TOTAL *							.00	103.10
0099999 000035595	00	B & G COLLISON REPAIR UT	00	03/02/2021	501-0000-229.00-00	MANUAL CHECK	1,778.69	
VENDOR TOTAL *							1,778.69	
0099999 000010573	00	BATALIA, GEORGIANA UT	00	02/24/2021	501-0000-229.00-00	FINAL BILL REFUND	33.56	
VENDOR TOTAL *							33.56	
0004994 A007655	00	BENEFITS DIRECT 000941	00	03/05/2021	001-1120-411.21-01	MONTHLY BILLING	EFT:	34.30
A007655		000942	00	03/05/2021	001-1140-411.21-01	MONTHLY BILLING	EFT:	30.18
A007655		000943	00	03/05/2021	001-1150-411.21-01	MONTHLY BILLING	EFT:	6.50
A007655		000945	00	03/05/2021	001-1305-413.21-01	MONTHLY BILLING	EFT:	16.28
A007655		000946	00	03/05/2021	001-1310-413.21-01	MONTHLY BILLING	EFT:	62.10
A007655		000948	00	03/05/2021	001-1330-413.21-01	MONTHLY BILLING	EFT:	27.80
A007655		000950	00	03/05/2021	001-2110-421.21-01	MONTHLY BILLING	EFT:	77.54
A007655		000951	00	03/05/2021	001-2120-421.21-01	MONTHLY BILLING	EFT:	267.58
A007655		000952	00	03/05/2021	001-2130-421.21-01	MONTHLY BILLING	EFT:	6.50
A007655		000953	00	03/05/2021	001-3116-431.21-01	MONTHLY BILLING	EFT:	9.78
A007655		000954	00	03/05/2021	001-3120-431.21-01	MONTHLY BILLING	EFT:	66.86
A007655		000955	00	03/05/2021	001-3130-431.21-01	MONTHLY BILLING	EFT:	57.08
A007655		000964	00	03/05/2021	001-6105-461.21-01	MONTHLY BILLING	EFT:	60.30
A007655		000965	00	03/05/2021	001-6120-461.21-01	MONTHLY BILLING	EFT:	57.98
A007655		000966	00	03/05/2021	001-7110-471.21-01	MONTHLY BILLING	EFT:	44.08
A007655		000967	00	03/05/2021	001-7120-471.21-01	MONTHLY BILLING	EFT:	33.46
A007655		000957	00	03/05/2021	501-4110-441.21-01	MONTHLY BILLING	EFT:	40.80

VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004994	00	BENEFITS DIRECT						
A007655		000958	00	03/05/2021	501-4120-441.21-01	MONTHLY BILLING	EFT:	47.30
A007655		000959	00	03/05/2021	501-4130-441.21-01	MONTHLY BILLING	EFT:	95.56
A007655		000960	00	03/05/2021	521-4210-442.21-01	MONTHLY BILLING	EFT:	13.90
A007655		000961	00	03/05/2021	521-4220-442.21-01	MONTHLY BILLING	EFT:	50.58
A007655		000962	00	03/05/2021	521-4230-442.21-01	MONTHLY BILLING	EFT:	62.68
A007655		000963	00	03/05/2021	531-4320-443.21-01	MONTHLY BILLING	EFT:	50.58
A007655		000944	00	03/05/2021	601-1230-412.21-01	MONTHLY BILLING	EFT:	13.90
A007655		000949	00	03/05/2021	602-1340-413.21-01	MONTHLY BILLING	EFT:	37.58
A007655		000956	00	03/05/2021	603-3150-431.21-01	MONTHLY BILLING	EFT:	6.50
A007655		000947	00	03/05/2021	604-1320-413.21-01	MONTHLY BILLING	EFT:	36.68
A007655		000939	00	03/05/2021	721-0000-202.03-07	MONTHLY BILLING	EFT:	8,386.22
A007655		000940	00	03/05/2021	721-0000-202.03-08	MONTHLY BILLING	EFT:	275.14
						VENDOR TOTAL *	.00	9,975.74
0001773 38630	00	BHC RHODES PI0137 007390	00	02/24/2021	403-3130-431.62-02	PROFESSIONAL SERVICES	EFT:	1,493.12
						VENDOR TOTAL *	.00	1,493.12
0004934 18-WA2002	00	BURNS & MCDONNELL/CAS CONSTRUCTORS PI0136 007179	00	02/28/2021	521-4240-442.61-03	HILLSDALE WTP EXPANSION	EFT:	661,106.28
						VENDOR TOTAL *	.00	661,106.28
0004628 90117128	00	CALGON CARBON CORPORATION PI0145 007586	00	02/27/2021	521-4220-442.52-13	CARBON	EFT:	3,499.20
						VENDOR TOTAL *	.00	3,499.20
0003080 11054878 11053414 11054898	00	CATES HEATING & AIR COND SVC INC 000995 000995 000995	00	03/05/2021 03/05/2021 03/05/2021	603-3150-431.31-15 603-3150-431.31-15 603-3150-431.31-15	HVAC REPAIRS HVAC REPAIRS HVAC REPAIRS	EFT: EFT: EFT:	1,335.50 284.55 2,288.38
						VENDOR TOTAL *	.00	3,908.43
0004117 201452812	00	CENTURYLINK BUSINESS SERVICES 000997	00	03/05/2021	602-1340-413.40-03	MONTHLY BILLING	1,521.53	
						VENDOR TOTAL *	1,521.53	
0003708 2020 S. CDR	00	CITY OF OLATHE 006993	00	03/05/2021	531-4310-443.48-03	S. CEDAR CREEK SPECIALS	11,534.63	
						VENDOR TOTAL *	11,534.63	
0004817 OP-000595546 OP-000595547	00	CONVERGEONE, INC 000995 000995	00	03/05/2021 03/05/2021	602-1340-413.47-05 602-1340-413.47-05	ADOBE RENEWAL VMWARE RENEWAL	EFT: EFT:	3,683.34 1,518.00
						VENDOR TOTAL *	.00	5,201.34
0000601 28451	00	CUSTOM METAL & FABRICATION 006994	00	03/05/2021	001-6120-461.52-01	GENERAL REPAIRS	EFT:	22.78
						VENDOR TOTAL *	.00	22.78
0003716	00	DATAPROSE						



VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0003716 DP2100323	00	DATAPROSE 000968	00	03/05/2021	604-1320-413.31-15	MONTHLY BILLING	EFT:	5,687.72
VENDOR TOTAL *							.00	5,687.72
0004998	00	DELTA DENTAL OF KANSAS						
1005114202103		000970	00	03/05/2021	001-1120-411.21-01	MONTHLY BILLING	EFT:	46.26
1005114202103		000971	00	03/05/2021	001-1140-411.21-01	MONTHLY BILLING	EFT:	148.26
1005114202103		000972	00	03/05/2021	001-1150-411.21-01	MONTHLY BILLING	EFT:	18.58
1005114202103		000974	00	03/05/2021	001-1305-413.21-01	MONTHLY BILLING	EFT:	64.84
1005114202103		000975	00	03/05/2021	001-1310-413.21-01	MONTHLY BILLING	EFT:	203.62
1005114202103		000977	00	03/05/2021	001-1330-413.21-01	MONTHLY BILLING	EFT:	92.52
1005114202103		000979	00	03/05/2021	001-2110-421.21-01	MONTHLY BILLING	EFT:	296.14
1005114202103		000980	00	03/05/2021	001-2120-421.21-01	MONTHLY BILLING	EFT:	775.05
1005114202103		000981	00	03/05/2021	001-2130-421.21-01	MONTHLY BILLING	EFT:	18.58
1005114202103		000982	00	03/05/2021	001-3120-431.21-01	MONTHLY BILLING	EFT:	240.78
1005114202103		000983	00	03/05/2021	001-3130-431.21-01	MONTHLY BILLING	EFT:	166.84
1005114202103		000991	00	03/05/2021	001-6105-461.21-01	MONTHLY BILLING	EFT:	148.26
1005114202103		000992	00	03/05/2021	001-6120-461.21-01	MONTHLY BILLING	EFT:	175.94
1005114202103		000993	00	03/05/2021	001-7110-471.21-01	MONTHLY BILLING	EFT:	157.36
1005114202103		000994	00	03/05/2021	001-7120-471.21-01	MONTHLY BILLING	EFT:	111.10
1005114202103		000984	00	03/05/2021	501-4110-441.21-01	MONTHLY BILLING	EFT:	111.10
1005114202103		000985	00	03/05/2021	501-4120-441.21-01	MONTHLY BILLING	EFT:	175.94
1005114202103		000986	00	03/05/2021	501-4130-441.21-01	MONTHLY BILLING	EFT:	314.72
1005114202103		000987	00	03/05/2021	521-4210-442.21-01	MONTHLY BILLING	EFT:	46.26
1005114202103		000988	00	03/05/2021	521-4220-442.21-01	MONTHLY BILLING	EFT:	175.94
1005114202103		000989	00	03/05/2021	521-4230-442.21-01	MONTHLY BILLING	EFT:	139.16
1005114202103		000990	00	03/05/2021	531-4320-443.21-01	MONTHLY BILLING	EFT:	185.04
1005114202103		000973	00	03/05/2021	601-1230-412.21-01	MONTHLY BILLING	EFT:	18.58
1005114202103		000978	00	03/05/2021	602-1340-413.21-01	MONTHLY BILLING	EFT:	138.78
1005114202103		000976	00	03/05/2021	604-1320-413.21-01	MONTHLY BILLING	EFT:	129.68
1005114202103		000969	00	03/05/2021	721-0000-202.03-08	MONTHLY BILLING	EFT:	4,288.04
VENDOR TOTAL *							.00	8,387.37
0003481	00	DPC INDUSTRIES INC						
817000320-21		PI0140 007585	00	02/16/2021	521-4220-442.52-13	CHLORINE	EFT:	643.00
817000284-21		PI0141 007587	00	02/11/2021	521-4220-442.52-13	AMMONIUM SULFATE	EFT:	1,140.00
VENDOR TOTAL *							.00	1,783.00
0000362	00	DRAWING BOARD PRINTING						
9283837		000995	00	03/05/2021	001-2120-421.52-20	RECEIPT BOOKS	149.70	
VENDOR TOTAL *							149.70	
0000527	00	DXP ENTERPRISES, INC						
51906100		PI0146 007598	00	02/01/2021	521-4220-442.43-02	PUMP REPAIR	EFT:	11,698.00
VENDOR TOTAL *							.00	11,698.00
0002511	00	ENRIGHT LAWNS, INC						
23514		000995	00	03/05/2021	001-2110-421.31-15	SALTING PARKING LOT	EFT:	1,250.00
VENDOR TOTAL *							.00	1,250.00
0004946	00	EVERGY						

VEND NO	SEQ#	VENDOR NAME							EFT, EPAY OR
INVOICE		VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	HAND- ISSUED
NO		NO	NO		DATE	NO	DESCRIPTION	AMOUNT	AMOUNT
0004946	00	EVERGY							
4469208877	0221001002			00	03/05/2021	521-4220-442.40-05	MONTHLY BILLING	102.52	
7011930732	0221001001			00	03/05/2021	531-4320-443.40-05	MONTHLY BILLING	353.62	
6466308678	0221001003			00	03/05/2021	531-4320-443.40-05	MONTHLY BILLING	95.26	
							VENDOR TOTAL *	551.40	
0001295	00	FOLEY EQUIPMENT COMPANY							
SS710030843	000996			00	03/05/2021	603-3150-431.31-15	EQUIPMENT REPAIR	EFT:	567.65
							VENDOR TOTAL *	.00	567.65
0099999	00	FOLSOM, MADISON							
000065841	UT			00	02/26/2021	501-0000-229.00-00	FINAL BILL REFUND	115.01	
							VENDOR TOTAL *	115.01	
0000086	00	GALLS, LLC							
017663596	000996			00	03/05/2021	001-2120-421.53-02	ACADEMY SHORTS-GERING	EFT:	16.50
017665259	000996			00	03/05/2021	001-2120-421.53-02	NAMETAG-MARINO	EFT:	19.05
017665357	000996			00	03/05/2021	001-2120-421.53-02	COLLAR BRASS-STOCK	EFT:	120.99
017687086	000996			00	03/05/2021	001-2120-421.53-02	PANTS - NEW RECRUITS	EFT:	109.28
017687097	000996			00	03/05/2021	001-2120-421.53-02	PATROL BOOTS-B. HAYS	EFT:	70.00
017743188	000996			00	03/05/2021	001-2120-421.53-02	DUTY JACKETS & BELTS	EFT:	665.62
017746254	000996			00	03/05/2021	001-2120-421.53-02	PATROL BOOTS-ADAMS	EFT:	113.39
017757275	000996			00	03/05/2021	001-2120-421.53-02	PANTS STRIPING	EFT:	12.99
							VENDOR TOTAL *	.00	1,127.82
0000433	00	GARDNER EDGERTON CHAMBER OF COMMERCE							
6469	PI0142 007599			00	02/15/2021	105-1120-411.31-15	2021 ANNUAL CONTRACT	EFT:	20,000.00
							VENDOR TOTAL *	.00	20,000.00
0000914	00	GARDNER HISTORICAL MUSEUM							
02262021	000996			00	03/05/2021	105-1120-411.58-00	2021 BUDGETED SUPPORT	20,000.00	
							VENDOR TOTAL *	20,000.00	
0000013	00	HACH COMPANY							
12325766	000996			00	03/05/2021	521-4220-442.52-12	STIR BAR	EFT:	14.18
							VENDOR TOTAL *	.00	14.18
0004993	00	HARTFORD, THE							
369442812280	000996			00	03/05/2021	001-1120-411.21-02	MONTHLY BILLING	EFT:	18.32
369442812280	000996			00	03/05/2021	001-1140-411.21-02	MONTHLY BILLING	EFT:	12.20
369442812280	000996			00	03/05/2021	001-1150-411.21-02	MONTHLY BILLING	EFT:	3.08
369442812280	000996			00	03/05/2021	001-1305-413.21-02	MONTHLY BILLING	EFT:	9.16
369442812280	000996			00	03/05/2021	001-1310-413.21-02	MONTHLY BILLING	EFT:	20.37
369442812280	000996			00	03/05/2021	001-1330-413.21-02	MONTHLY BILLING	EFT:	12.24
369442812280	000996			00	03/05/2021	001-2110-421.21-02	MONTHLY BILLING	EFT:	30.56
369442812280	000996			00	03/05/2021	001-2120-421.21-02	MONTHLY BILLING	EFT:	122.24
369442812280	000996			00	03/05/2021	001-2130-421.21-02	MONTHLY BILLING	EFT:	4.58
369442812280	000996			00	03/05/2021	001-3110-431.21-02	MONTHLY BILLING	EFT:	4.58
369442812280	000996			00	03/05/2021	001-3116-431.21-02	MONTHLY BILLING	EFT:	4.58
369442812280	000996			00	03/05/2021	001-3120-431.21-02	MONTHLY BILLING	EFT:	35.14

VEND NO	SEQ#	VENDOR NAME		BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND- ISSUED
NO		NO	NO						AMOUNT
0004993	00	HARTFORD, THE							
369442812280		000996		00	03/05/2021	001-3130-431.21-02	MONTHLY BILLING	EFT:	29.06
369442812280		000996		00	03/05/2021	001-6105-461.21-02	MONTHLY BILLING	EFT:	30.56
369442812280		000996		00	03/05/2021	001-6120-461.21-02	MONTHLY BILLING	EFT:	24.48
369442812280		000996		00	03/05/2021	001-7110-471.21-02	MONTHLY BILLING	EFT:	22.90
369442812280		000996		00	03/05/2021	001-7120-471.21-02	MONTHLY BILLING	EFT:	12.20
369442812280		000996		00	03/05/2021	501-4110-441.21-02	MONTHLY BILLING	EFT:	16.82
369442812280		000996		00	03/05/2021	501-4120-441.21-02	MONTHLY BILLING	EFT:	21.40
369442812280		000996		00	03/05/2021	501-4130-441.21-02	MONTHLY BILLING	EFT:	43.93
369442812280		000996		00	03/05/2021	521-4210-442.21-02	MONTHLY BILLING	EFT:	4.58
369442812280		000996		00	03/05/2021	521-4220-442.21-02	MONTHLY BILLING	EFT:	24.48
369442812280		000996		00	03/05/2021	521-4230-442.21-02	MONTHLY BILLING	EFT:	35.22
369442812280		000996		00	03/05/2021	531-4320-443.21-02	MONTHLY BILLING	EFT:	27.48
369442812280		000996		00	03/05/2021	551-4520-445.21-02	MONTHLY BILLING	EFT:	1.13
369442812280		000996		00	03/05/2021	601-1230-412.21-02	MONTHLY BILLING	EFT:	4.58
369442812280		000996		00	03/05/2021	602-1340-413.21-02	MONTHLY BILLING	EFT:	9.16
369442812280		000996		00	03/05/2021	603-3150-431.21-02	MONTHLY BILLING	EFT:	4.58
369442812280		000996		00	03/05/2021	604-1320-413.21-02	MONTHLY BILLING	EFT:	30.56
VENDOR TOTAL *								.00	620.17
0005088	00	HERO INDUSTRIES, INC							
10356		001004		00	03/05/2021	001-2120-421.52-20	PROMO ITEMS	EFT:	2,460.00
VENDOR TOTAL *								.00	2,460.00
0005000	00	HUMANA INSURANCE COMPANY							
702625413		000996		00	03/05/2021	001-1120-411.21-01	MONTHLY BILLING	EFT:	3,915.56
702625413		000996		00	03/05/2021	001-1140-411.21-01	MONTHLY BILLING	EFT:	2,576.92
702625413		000996		00	03/05/2021	001-1150-411.21-01	MONTHLY BILLING	EFT:	536.32
702625413		000996		00	03/05/2021	001-1305-413.21-01	MONTHLY BILLING	EFT:	1,556.62
702625413		000996		00	03/05/2021	001-1310-413.21-01	MONTHLY BILLING	EFT:	5,184.82
702625413		000996		00	03/05/2021	001-1330-413.21-01	MONTHLY BILLING	EFT:	2,229.70
702625413		000996		00	03/05/2021	001-2110-421.21-01	MONTHLY BILLING	EFT:	7,451.66
702625413		000996		00	03/05/2021	001-2120-421.21-01	MONTHLY BILLING	EFT:	18,891.39
702625413		000996		00	03/05/2021	001-2130-421.21-01	MONTHLY BILLING	EFT:	536.32
702625413		000996		00	03/05/2021	001-3116-431.21-01	MONTHLY BILLING	EFT:	1,020.30
702625413		000996		00	03/05/2021	001-3120-431.21-01	MONTHLY BILLING	EFT:	4,911.30
702625413		000996		00	03/05/2021	001-3130-431.21-01	MONTHLY BILLING	EFT:	4,851.44
702625413		000996		00	03/05/2021	001-6105-461.21-01	MONTHLY BILLING	EFT:	4,911.30
702625413		000996		00	03/05/2021	001-6120-461.21-01	MONTHLY BILLING	EFT:	4,326.80
702625413		000996		00	03/05/2021	001-7110-471.21-01	MONTHLY BILLING	EFT:	4,754.16
702625413		000996		00	03/05/2021	001-7120-471.21-01	MONTHLY BILLING	EFT:	2,911.90
702625413		000996		00	03/05/2021	501-4110-441.21-01	MONTHLY BILLING	EFT:	3,302.34
702625413		000996		00	03/05/2021	501-4120-441.21-01	MONTHLY BILLING	EFT:	4,755.88
702625413		000996		00	03/05/2021	501-4130-441.21-01	MONTHLY BILLING	EFT:	9,447.60
702625413		000996		00	03/05/2021	521-4210-442.21-01	MONTHLY BILLING	EFT:	1,209.40
702625413		000996		00	03/05/2021	521-4220-442.21-01	MONTHLY BILLING	EFT:	4,610.46
702625413		000996		00	03/05/2021	521-4230-442.21-01	MONTHLY BILLING	EFT:	6,657.02
702625413		000996		00	03/05/2021	531-4320-443.21-01	MONTHLY BILLING	EFT:	5,759.94
702625413		000996		00	03/05/2021	601-1230-412.21-01	MONTHLY BILLING	EFT:	536.32
702625413		000996		00	03/05/2021	601-1230-412.31-15	MONTHLY BILLING	EFT:	1,033.18



VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000233 15498	00	MAXIMUM LAWN CARE 000997	00	03/05/2021	001-2110-421.31-15	SNOW REMOVAL	EFT:	2,625.00
VENDOR TOTAL *							.00	2,625.00
0003700 871284	00	MCANANY VAN CLEAVE & PHILLIPS PA 000997	00	03/05/2021	001-1120-411.31-02	LEGAL SERVICES	EFT:	928.00
871285		000997	00	03/05/2021	001-1120-411.31-02	LEGAL SERVICES	EFT:	790.00
871286		000997	00	03/05/2021	001-1120-411.31-02	LEGAL SERVICES	EFT:	19.00
VENDOR TOTAL *							.00	1,737.00
0004464 111034-2	00	MID-STATE RENTAL 000997	00	03/05/2021	521-4230-442.52-02	ROAD SAW	EFT:	138.00
111034-2		000997	00	03/05/2021	531-4330-443.52-02	ROAD SAW	EFT:	138.00
VENDOR TOTAL *							.00	276.00
0003579 101944	00	MID-STATES MATERIALS LLC 001009	00	03/05/2021	521-4230-442.52-12	ROCK	114.15	
101944		001010	00	03/05/2021	531-4330-443.52-12	ROCK	114.14	
VENDOR TOTAL *							228.29	
0002813 25007	00	NOVATECH, LLC 001011	00	03/05/2021	501-4120-441.31-15	ENGINEERING SERVICES	EFT:	300.00
VENDOR TOTAL *							.00	300.00
0002412 55917	00	OAKBROOK ANIMAL HOSPITAL 000421	00	02/12/2021	001-0000-207.10-20	CASH REFUND	CHECK #: 16985	1,425.00-
55917		000421	00	03/03/2021	001-0000-207.10-20	CASH REFUND	1,425.00	
VENDOR TOTAL *							1,425.00	1,425.00-
0000142 157641 02	00	OLATHE WINWATER WORKS 000997	00	03/05/2021	501-4140-441.63-73	METER FLANGES	EFT:	591.00
156985 00		000997	00	03/05/2021	521-4230-442.52-32	CHECK VALVE	EFT:	213.63
157018 02		000997	00	03/05/2021	521-4230-442.52-31	BRASS SADDLES	EFT:	786.00
157896 00		000997	00	03/05/2021	531-4330-443.52-12	MANHOLE RINGS	EFT:	896.77
VENDOR TOTAL *							.00	2,487.40
0005004 097878	00	PEER, ADAM 001006	00	03/05/2021	001-1330-413.31-02	COURT APPT ATTY FEES	EFT:	60.00
VENDOR TOTAL *							.00	60.00
0000149 61901603	00	PRAXAIR DISTRIBUTION INC 000997	00	03/05/2021	001-3116-431.44-02	CYLINDER RENTAL	EFT:	45.51
VENDOR TOTAL *							.00	45.51
0005055 3-ED2001	00	PRO DESIGN CONTRACTORS LLC PI0139 007557	00	02/26/2021	531-4340-443.62-10	EAST SEWER INCEPTOR	EFT:	51,277.50
VENDOR TOTAL *							.00	51,277.50
0004198 848063	00	PROTECT YOUTH SPORTS 000998	00	03/05/2021	001-6110-461.47-53	BACKGROUND CHECKS	EFT:	513.95



VEND NO INVOICE NO	SEQ#	VENDOR NAME VOUCHER P.O. NO	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004198	00	PROTECT YOUTH SPORTS						
						VENDOR TOTAL *	.00	513.95
0004932 N8743580	00	QUADIENT LEASING USA, INC. 000998	00	03/05/2021	602-1340-413.44-02	QUARTERLY BILLING	EFT:	407.31
						VENDOR TOTAL *	.00	407.31
0003509 2246	00	RAINOUT LINE 000998	00	03/05/2021	001-6110-461.40-03	ANNUAL SUBSCRIPTION	EFT:	399.00
						VENDOR TOTAL *	.00	399.00
0003110 455635	00	REJIS COMMISSION 000998	00	03/05/2021	001-2110-421.31-15	REJIS TRANSACTIONS	EFT:	90.28
						VENDOR TOTAL *	.00	90.28
0004869 41234	00	RITZ SAFETY, LLC 000998	00	03/05/2021	501-4130-441.53-02	CLOTHING	EFT:	393.17
						VENDOR TOTAL *	.00	393.17
0000158 185083	00	SANTA FE AIR CONDITIONING & REFRIG 000998	00	03/05/2021	551-4520-445.31-15	INSPECTION & SERVICE	EFT:	237.00
						VENDOR TOTAL *	.00	237.00
0000379 5784659	00	SCHWAAB, INC. 000998	00	03/05/2021	001-1120-411.52-20	STAMP	46.25	
						VENDOR TOTAL *	46.25	
0004179 02182021	00	SHELTON, BILL ALAN 000998	00	03/05/2021	551-4520-445.31-15	SNOW REMOVAL-AIRPORT	812.50	
						VENDOR TOTAL *	812.50	
0004785 2787688 2789179	00	SUMNERONE, INC 001012 000998	00	03/05/2021 03/05/2021	501-4110-441.43-02 602-1340-413.43-02	MONTHLY BILLING MONTHLY BILLING	EFT: EFT:	3,443.97 179.82
						VENDOR TOTAL *	.00	3,623.79
0000174 0115237	00	TAPCO PRODUCTS CO. 000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	52.89
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	52.89
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	52.89
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	52.89
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	8.95
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	8.95
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	8.95
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	8.95
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	22.65
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	22.65
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	16.70
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	16.70
0115237		000998	00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	26.65

VEND NO	SEQ#	VENDOR NAME		BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER	P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND- ISSUED
NO		NO	NO						AMOUNT
0000174	00	TAPCO PRODUCTS CO.							
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	26.65
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	44.26
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	44.26
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	13.55
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	13.55
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	13.55
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	13.55
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	98.17
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	27.44
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	27.44
0115237		000998		00	03/05/2021	603-3150-431.42-01	MONTHLY BILLING	EFT:	27.44
VENDOR TOTAL *								.00	702.57
0004508	00	TEAMSIDELINE.COM							
TS-INV-8927		000998		00	03/05/2021	001-6110-461.47-53	ANNUAL FEE	699.00	
VENDOR TOTAL *								699.00	
0000176	00	TIME WARNER CABLE							
025113602022021000998				00	03/05/2021	602-1340-413.47-05	MONTHLY BILLING	119.99	
VENDOR TOTAL *								119.99	
0000105	00	TYLER TECHNOLOGIES, INC							
025-324430		000998		00	03/05/2021	602-1340-413.47-05	MONTHLY BILLING	EFT:	200.00
VENDOR TOTAL *								.00	200.00
0000238	00	USA BLUE BOOK							
513068		000998		00	03/05/2021	521-4220-442.52-12	PSI TRANSMITTER	EFT:	198.64
VENDOR TOTAL *								.00	198.64
0005086	00	VLP AN EQUIPMENTSHARE COMPANY							
PSO037683-1		000998		00	03/05/2021	521-4230-442.43-02	PARTS	EFT:	204.60
PSO037683-1		000998		00	03/05/2021	531-4330-443.43-02	PARTS	EFT:	204.60
VENDOR TOTAL *								.00	409.20
0004226	00	WATCHMEN SECURITY SERVICES							
53681		000998		00	03/05/2021	501-4120-441.31-15	VIDEO ALARM MONITORING	EFT:	365.99
VENDOR TOTAL *								.00	365.99
0000681	00	WATER ENVIRONMENT FEDERATION							
01777578 2021		001013		00	03/05/2021	531-4320-443.46-02	J.S. MILLHOLLAND RENEWAL	EFT:	85.00
VENDOR TOTAL *								.00	85.00
0004599	00	WATER RESOURCES SOLUTIONS, LLC							
21-1431		PI0138 007555	00	02/26/2021		001-3130-431.31-10	ON CALL NPDES	EFT:	225.00
VENDOR TOTAL *								.00	225.00
0099999	00	WEBB-HEARD, LINGERRIA							
000065895		UT		00	02/25/2021	501-0000-229.00-00	FINAL BILL REFUND	45.89	
VENDOR TOTAL *								45.89	
0003221	00	WEX BANK							

VEND NO	SEQ#	VENDOR NAME						EFT, EPAY OR
INVOICE		VOUCHER	P.O.	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK
NO		NO	NO		DATE	NO	DESCRIPTION	AMOUNT
								HAND-ISSUED
								AMOUNT
0003221	00	WEX BANK						
70188139		000998		00	03/05/2021	001-2110-421.52-09	FUEL	EFT: 156.50
70188139		000998		00	03/05/2021	001-2120-421.52-09	FUEL	EFT: 4,538.50
70188139		000998		00	03/05/2021	001-2130-421.52-09	FUEL	EFT: 109.31
70188139		000998		00	03/05/2021	001-3116-431.52-09	FUEL	EFT: 55.20
70188139		000998		00	03/05/2021	001-3120-431.52-09	FUEL	EFT: 1,859.97
70188139		000998		00	03/05/2021	001-3130-431.52-09	FUEL	EFT: 66.75
70188139		000998		00	03/05/2021	001-6120-461.52-09	FUEL	EFT: 167.95
70188139		000998		00	03/05/2021	001-7120-471.52-09	FUEL	EFT: 275.37
70188139		000998		00	03/05/2021	603-3150-431.52-09	FUEL	EFT: 148.85
70188139		000998		00	03/05/2021	604-1320-413.52-09	FUEL	EFT: 368.79
							VENDOR TOTAL *	.00 7,747.19
							HAND ISSUED TOTAL ***	1,425.00-
							EFT/EPAY TOTAL ***	1,033,387.20
							TOTAL EXPENDITURES ****	46,726.04 1,031,962.20
							GRAND TOTAL *****	1,078,688.24

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 3

**MEETING DATE:** MARCH 15, 2021

**STAFF CONTACT:** TIM McELDOWNEY, CITY ENGINEER

---

**Agenda Item:** Consider authorizing the execution of a construction contract for the Hilltop Ridge Benefit District Projects

**Strategic Priority:** Infrastructure and Asset Management

**Department:** Public Works

---

### Staff Recommendation:

Staff recommends authorizing the City Administrator to execute a contract with Emery Sapp and Sons for the Hilltop Ridge Benefit District Projects for a total of \$723,143.39 and authorize the City Administrator to approve construction related Change Orders up to an additional \$72,000.00 (10%).

### Background/Description of Item:

Hilltop Ridge is a single-family development located on the south side of 167<sup>th</sup> Street, immediately west of Kill Creek Road. On October 19, 2020, City Council approved the formation of the Hilltop Ridge Phase One Offsite Sanitary Sewer and 167<sup>th</sup> Street Special Benefit District (BD1) and the Hilltop Ridge Phase One First Plat Internal Improvements Special Benefit District (BD2).

This contract includes the sanitary sewer work in BD1 and all of BD2, which is only sanitary sewer. The 167<sup>th</sup> Street improvements will be constructed under a separate contract later this year.

An Invitation to Bid notice was published online at [www.drexeltech.com](http://www.drexeltech.com) in their distribution plan room, in the *Legal Record*, and on the City's website. Bids for the project were received and publicly opened on February 24, 2021. A summary of the bids received follows:

<u>Bidder</u>	<u>Total Bid</u>
Emery Sapp and Sons, Inc.	\$723,274.33
Linaweaver Construction	\$725,255.00
Pyramid Excavating	\$806,465.00
SDI	\$835,538.00
Kansas Heavy Construction	\$1,088,393.00
Engineer's Estimate	\$824,809.50

The design engineer reviewed the bid documents and references for Emery Sapp and Sons, and recommends award of the project. Staff anticipates issuing a Notice to Proceed in March

2021. The contractor must have the project substantially complete 105 calendar days from the notice in order to avoid liquidated damages.

**Financial Impact:**

Funding for this project will come from the two special benefit districts described above. The City issued temporary notes in 2020 to provide temporary financing for the project. After the improvements are complete, the City will issue long-term bonds to provide permanent financing. The cost of the improvements will be assessed one-hundred percent (100%) against the improvement districts and zero percent (0%) to be paid by the City at large.

**Attachments Included:**

- Engineer's Recommendation to Award
- Agreement
- Bid Tab

**Suggested Motion:**

Authorize the City Administrator to execute a contract with Emery Sapp and Sons for the Hilltop Ridge Benefit District Projects for a total of \$723,143.39 and authorize the City Administrator to approve construction related Change Orders up to an additional \$72,000.00 (10%)

February 26, 2021

City of Gardner  
Attn: Mr. Tim McEldowney, PE  
City Engineer  
120 E. Main Street  
Gardner, Kansas 66030

Re: Bid Results: PW-2005, PW-2006; Hilltop Ridge Benefit District Projects

Dear Mr. McEldowney,

The referenced projects were bid at Gardner City Hall at 10:00 a.m. on February 24, 2021. There were a total of five **bids received. The bids ranged from a high of \$1,088,393 to a low bid of \$723,143.39. The Engineer's Opinion of Probable Cost** was \$824,809.50. The low bid was submitted by Emery Sapp & Sons, Inc.

We have assembled the bid tabulations and attached them for your reference. We noted no discrepancies from the bid forms submitted by each contractor.

Renaissance Infrastructure Consulting recommends that the City of Gardner proceed with final contract negotiations for the referenced projects with Emery Sapp and Sons, Inc., noting that they were the low bid and they are known to be a reputable and reliable construction firm in the Kansas City metro area.

Please feel free to contact me if you have questions or require further information.

Sincerely,

RENAISSANCE INFRASTRUCTURE CONSULTING



Francis H. "Chip" Corcoran, PE  
President, Project Manager

Pc: Dennis Pugh, M & P Real Estate Investments, LLC – Hilltop Ridge Developer

## AGREEMENT BETWEEN CITY AND CONTRACTOR

This agreement ["Agreement"], is made as of this 5 day of March, 2021 by and between the City of Gardner, Kansas, [hereinafter "City"], and Emery Sapp & Sons, Inc. [hereinafter referred to as "Contractor"] for the construction of the following described work: "HILLTOP RIDGE BENEFIT DISTRICT PROJECTS" known as City of Gardner Project No. PW2005 & PW2006.

### RECITALS

WHEREAS, the City desires to construct and complete Project No. PW2005 & PW2006.

WHEREAS, the City has caused to be prepared, in accordance with the law, Notice to Bidders, Instructions to Bidders, Bid, this Agreement, General and Special Conditions, Plans, Specifications and other Contract Documents (the "Contract Documents"), as defined in the General Conditions, for the work herein described, and has approved and adopted these said Contract Documents and has caused to be published, in the manner and for the time required by law, an advertisement inviting sealed Bids for furnishing construction materials, labor, tools, equipment and transportation necessary for, and in connection with, the construction of public improvements in accordance with the terms of this Agreement; and

WHEREAS, the Contractor, in response to the advertisement, has submitted to the City, in the manner and at the time specified, a sealed Bid in accordance with the terms of this Agreement; and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bids submitted, and as a result of this canvass has, in accordance with the law, determined and declared the Contractor to be the lowest and best responsible bidder for the construction of the public improvements known as Project No. PW2005 & PW2006, and has duly awarded to the Contractor a contract therefore upon the terms and conditions set forth in this Agreement for the sum or sums named in the Bid attached to and made a part of this Agreement.

WHEREAS, in the judgment of the City of Gardner, it is necessary and desirable to employ the services of Contractor for **the HILLTOP RIDGE BENEFIT DISTRICT PROJECTS**.

NOW, THEREFORE, in consideration of the compensation to be paid the Contractor, foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:



## AGREEMENT

- 1.0 Work to be Performed. The Contractor will furnish at his own cost and expense all labor, tools, equipment, materials and transportation required to construct and complete the work designated, described and required by the Bid Documents and Contract Documents for City of Gardner Project No. PW2005 & PW2006. All terms used herein shall have the meanings ascribed to them in the General Conditions unless otherwise specified.
- 1.1 Contractor's Work. The Work to be performed by Contractor under this Agreement is as described in the Bid Documents, attached and incorporated by reference.
- 1.2 Performance Standard. Contractor represents to City that Contractor is professionally qualified to do this Project and if required, is licensed to practice the Work being offered by all public entities having jurisdiction over Contractor and the Project. Contractor specifically acknowledges and confirms that: 1.) Contractor has visited the site, made all inspections Contractor deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by Contractor as specified herein and in the other Contract Documents and knowingly accepts same; 2.) Contractor has furnished copies of all Contract Documents to Contractor's insurance carrier(s) and its surety(ies); and 3.) Contractor's insurance carrier(s) and surety(ies) agree to be bound as specified in this Agreement, in the Contract Documents, as set forth in the insurance policy(ies) and bonds pertaining to liability and surety coverage.
- 1.3 Assigned Personnel.
- a. Contractor shall only assign competent personnel to perform work hereunder. In the event that at any time City, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform work hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from City.
  - b. With respect to this Agreement, the Contractor shall employ the following key personnel: Jonathan Myers, Carl Messer, Dennis
  - c. In the event that any of Contractor's personnel assigned to perform Work under this Agreement become unavailable due to resignation, sickness or other factors outside of Contractor's control, Contractor's shall be responsible for timely provision of adequately qualified replacements. Bestel
  - d. The Contractor shall designate Robert Snyder as Principal (name/contact info) on the Project. As principal on this project, this person shall be the primary contact with the Project Representative and shall have authority to bind Contractor. So long as the individual named above remains actively employed or retained by Contractor, he/she shall perform the function of principal on the Project, unless otherwise agreed to in writing signed by both parties. The Contractor will supply a direct name, phone number and email and will notify the City if this contact information changes during the contract period. Reese  
Switzer

- e. The City shall designate Tim McEldowney, P.E., (913-856-0959, [tmceldowney@gardnerkansas.gov](mailto:tmceldowney@gardnerkansas.gov)) as the Project Representative to represent the City in coordinating this project with Contractor, with authority to transmit instructions and define policies and decisions of City. The written consent of the Department Director, and if applicable, City Administrator and/or Governing Body, shall be required to approve any increase in Project cost.

2.0 Commencement of Contract Time; Notice to Proceed.

- 2.1 The Contract Time will commence on the date stated in the Notice to Proceed. No Work shall be done at the site prior to issuance of a Notice to Proceed.
- 2.2 Before a Notice to Proceed will be issued, Contractor shall deliver to City certificates of insurance and such bonds as are required pursuant to the terms of this Agreement and the Contract Documents.
- 2.3 Before Contractor commences Work, a Pre-Construction Conference shall be held to review the progress schedules, to establish procedures for handling Shop Drawings and other submittals, and to establish a working understanding among the parties as to the Work to be performed pursuant to the terms of this Agreement and the Contract Documents.

3.0 Time of Performance.

- 3.1 Unless otherwise provide in this Agreement, Contractor shall commence Work upon the date stated in the Notice to Proceed, and will complete all Work covered by this Agreement and the Contract Documents within the time specified on the Notice to Proceed. Time is of the essence.
- 3.2 Progress Schedule  
Within ten (10) days after the Effective Date of this Agreement and prior to commencing the Work, Contractor shall submit to City an estimated progress schedule indicating the starting and completion dates of the various phases of the Work, including the projected cost of each phase. The cost projection may serve as the basis for Progress Payments during the Work.
- 3.3 Computation of Time. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation. A calendar day of 24 hours measured from midnight to the next midnight shall constitute a day.
- 3.4 Changes in Contract Time. The Contract Time may only be changed by a Change Order. Any claim for an extension or shortening of the contract time shall be based on written notice delivered by the party requesting the change to the other party promptly and stating the general nature of the claim. A written claim with supporting data shall be delivered within thirty (30) days after such occurrence (unless the Engineer allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence

of said event. All claims for adjustment in the Contract Time shall be determined by the Engineer. Consideration may be given to requests for extensions of time due to inclement weather. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph. In executing this Agreement, Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time therein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such Work, whether growing out of delays in securing materials, workers, weather conditions or otherwise.

- 3.5 Damages for City Delay. If Contractor shall be delayed at any time in the progress of the Work by any act or omission of City or by any separate contractor employed by City, and over which Contractor has no control, then the Contract Time shall be extended by written Change Order for such reasonable time as City may decide, and no adjustment shall be made in the Contract Price.
- 3.6 Work Stoppage. Contractor warrants to City that there will be no Work stoppages or interruptions arising out of labor disputes, including, but not limited to, those due to the presence of both union and nonunion workforces at the Project site. Contractor further agrees that in the event of any strike, picket, sympathy strike, work stoppage or other form of labor dispute or picket in connection with the work of Contractor, other contractors, subcontractors, City, or any other person, Contractor will, contingent upon City providing a picket free entrance, continue to perform the Work required herein without interruption or delay.
- 3.7 Liquidated Damages.
- a. Due to the critical nature of this project, liquidated damages resulting from failure to meet the completion date, shall be charged against the Contractor at a rate of per the following schedule:

CONTRACT AMOUNT			LIQUIDATED DAMAGES
\$0	to	\$25,000	\$75
\$25,001	to	\$50,000	\$125
\$50,001	to	\$100,000	\$200
\$100,001	to	\$500,000	\$400
\$500,001	to	\$1,000,000	\$600
\$1,000,001	to	\$2,000,000	\$925
\$2,000,001	to	\$5,000,000	\$1,375
\$5,000,001	to	\$10,000,000	\$2,000
\$10,000,001	and	up	\$3,000

The amount shown above shall be the sum due for each 24-hour calendar day, including weekends and holidays, on the full bid price of the Contract for each day completion is not made in accordance with the project schedule. The assessed amount shall be deducted from the final invoice(s).

- b. Damages are only a reasonable estimate of City's damages due to loss of public use during any delay period.



- c. The City shall have the right to deduct the liquidated damages due to the public's loss of use of the project, and the City's actual costs to continue administration of the construction and the contract, from any monies due or any monies that may become due to the Contractor.

#### 4.0 Payment.

4.1 City agrees to pay Contractor for the actual work performed in accordance with this Agreement and the Contract Documents on the Project at the rates set forth in the Bid Form, which is attached hereto and incorporated by reference into this Agreement, the total of which shall not exceed a maximum total fee of \$ 723,143.39.

4.2 Contractor shall bill City monthly for all work performed. The bill submitted by Contractor shall itemize the work for which payment is requested. City agrees to pay Contractor within thirty (30) days of approval. Contractor agrees to submit herewith such financial information as shall be required by City to enable the City to properly report such payments as required by state or federal law. City will pay or cause to be paid an amount equal to the estimated value of the Work performed less a retained amount in accordance with the following schedule:

- 1) Ten (10) percent until construction is substantially complete;
- 2) When the Work is substantially complete, the retained amount may be reduced to a lesser amount at the discretion of the Engineer.

4.3 All invoices should be sent to City of Gardner, Public Works Department, 120 E. Main Street, Gardner, KS 66030 Attn: Tim McEldowney, P.E.

4.4 Right to Withhold Payment:

City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to Contractor, to protect City from loss because of:

- 1) Defective Work not remedied by Contractor nor, in the opinion of City, likely to be remedied by Contractor;
- 2) Claims of third parties against City or City's property;
- 3) Failure by Contractor to pay Subcontractors or others in a prompt and proper fashion;
- 4) Evidence that the balance of the Work cannot be completed in accordance with this Agreement for the unpaid balance of the Contract Price;
- 5) Evidence that the Work will not be completed in the Contract Time required for substantial or final completion;
- 6) Persistent failure to carry out the Work in accordance with this Agreement;
- 7) Damage to City or a third party to whom City is, or may be, liable; or
- 8) Conditions unfavorable for the prosecution of Work, or because of conditions which, in the opinion of the Engineer, warrant such action.

#### 5.0 Substantial Completion.

5.1 When Contractor considers the entire Work ready for its intended use and all final restoration and testing is complete, Contractor shall notify City in writing that the entire Work is substantially complete and request that the Engineer issue a statement of Substantial Completion. Within a reasonable time thereafter, City and Contractor shall observe the Work to determine the status of completion. If City does not consider the Work substantially complete, City will notify Contractor

in writing, giving its reasons therefore. If City considers the Work substantially complete, City will prepare a tentative statement of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the statement a tentative list of items to be completed or corrected before Final Payment. This list shall be called a Punch List. The statement shall state the responsibilities of City and Contractor for maintenance, utilities, damage to the Work and insurance if any of these items shall be treated differently upon Substantial Completion and shall further state the time within which Contractor shall complete the items on the Punch List attached thereto.

- 5.2 City shall have the right to exclude Contractor from the Work after the date of Substantial Completion, but City shall allow Contractor reasonable access to complete or correct items on the Punch List.

#### 6.0 Partial Utilization of Work by City.

Use by City of any finished part of the Work, which has specifically been identified in the Contract Documents, or which City and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by City without significant interference with Contractor's performance of the remainder of the Work shall be permitted. Such use and operation shall not constitute an acceptance of the Work, and Contractor shall be liable for defects due to faulty construction until the entire Work under this Agreement is finally accepted and for a period of two (2) years or longer thereafter as stipulated in these Contract Documents or by other law or regulation.

#### 7.0 Completion and Final Payment.

- 7.1 Upon written notice from Contractor that Work or an agreed portion thereof is complete, Engineer will make a final inspection with Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to remedy such deficiencies.
- 7.2 If a repeat final inspection(s) is required, Contractor shall bear the cost of such repeat inspection, if any, including engineering and other professional fees. After Contractor has completed all such corrections and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked-up record documents and other documents - all as required by the Contract Documents, and after Engineer has indicated that the Work is complete, Contractor may make application for Final Payment request following the procedure for progress payment requests.
- 7.3 The Final Payment requests shall be accompanied by all documentation called for in this Agreement and the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to City) of all liens arising out of or filed in connection with the Work. In lieu thereof and as approved by City, Contractor may furnish receipts or releases in full; an affidavit of Contractor that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which City or its property might in any way be responsible, have been paid or otherwise satisfied; and consent of

the surety, if any, to Final Payment. If any Subcontractor or supplier fails to furnish a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to City to indemnify City against any lien.

- 7.4 If, on the basis of Engineer's observation of the Work during construction and final inspection, he determines that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Final Payment certificates together with acceptance certificates will be submitted for payment.

8.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

9.0 Term of Agreement.

In the event that the Work rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the governing body of the City in the establishment of its annual budget.

10.0 Warranty and Defective or Unacceptable Work.

Contractor warranties and guarantees to City that all Work will be in accordance with the Contract Documents and will not be Defective or otherwise unacceptable. All Work which does not conform to the requirements of the Contract Documents shall be considered unacceptable. Defective Work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist within the two (2) year warranty period or such longer time as may be permitted by law, shall be removed immediately and replaced in an acceptable manner. This provision shall have full effect regardless of the fact that the Defective Work may have been done or the defective materials used with the full knowledge of City. No inspection by City of the Work nor Final Acceptance of the project by City shall relieve Contractor of its responsibility to perform pursuant to the Contract Documents and provide acceptable Work. If Contractor fails to remove Defective Work within seven (7) days after written notice, the rejected material or Work may be removed and corrected by City pursuant to the provisions of the Contract Documents permitting City to correct the Defective Work.

11.0 Suspension of Work.

City may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to Contractor which shall fix the date on which Work shall be resumed. Contractor shall resume the Work on the date so fixed. Contractor will not be allowed an increase in the Contract Price or an extension



of the Contract Time, if such suspension is made as a result of an act or omission of Contractor including but not limited to the occurrence of any one or more of the following events:

1. If Contractor fails to supply a qualified superintendent, sufficient skilled workmen, Subcontractors, or suitable materials or equipment;
2. If Contractor repeatedly fails to make prompt payments to Subcontractors or suppliers or for labor, materials, or equipment;
3. If Contractor disregards Laws and Regulations of any public body having jurisdiction; or
4. If Contractor otherwise violates in any substantial way any provisions of the Contract Documents, City shall have authority to suspend the Work wholly or in part, for such period of time as it may deem necessary, due to conditions unfavorable for the prosecution of the Work, or to conditions which in his opinion warrant such action, or for such time as is necessary by reason of failure on the part of Contractor to carry out orders given, or to perform any or all provisions of the Contract.

If it becomes necessary to suspend Work for an indefinite period of time, Contractor shall store all materials in such manner that they will not obstruct or impede the traveling public unnecessarily or become damaged in any way; take every precaution to prevent damage or deterioration of the Work performed; provide suitable drainage of the roadway and erect temporary structures and protective barriers where necessary. Contractor shall not suspend Work without written authority from City.

## 12.0 Termination.

### 12.1 Right of City to Terminate Contract.

- a. Without in any manner limiting the right of City to terminate the Contract or declare Contractor in default thereof for any reason set forth in this Agreement or the Contract Documents, if:
  1. the Work to be done under this Agreement shall be abandoned by Contractor; or
  2. this Contract shall be assigned by Contractor otherwise than as herein provided; or
  3. Contractor should be adjudicated to be bankrupt; or
  4. a general assignment of its assets should be made for the benefit of its creditors; or
  5. a receiver should be appointed for Contractor or any of its property; or
  6. at any time City believes that the performance of the Work under this Contract is being unnecessarily delayed, that Contractor is violating any of the conditions or covenants of this Agreement or the specifications therefore, that it is executing the same in bad faith or otherwise not in accordance with the terms of said Contract; or
  7. all bid items of the Project are not completed within the Contract Time named for their completion or within the time to which such completion date may be extended;



then, in addition to other rights City may choose to exercise, City may, at its option, serve written notice upon Contractor and its surety of City's intention to terminate this Agreement, and, unless within five (5) days after the serving of such notice upon Contractor, a satisfactory arrangement is made for the continuance thereof, this Contract shall cease and terminate.

- b. Whether or not a satisfactory arrangement has been proposed by the Contractor shall be in the sole discretion of the City. In the event of such termination, or in the event that Contractor fails to perform and abide by any obligation set forth herein in any respect, City shall immediately serve notice thereof upon the surety and Contractor, and the surety shall have the right to take over and complete the Work; provided, however, that if the surety does not commence performance thereof within fourteen (14) days from the date of said notice of termination, City may take over the Work and prosecute same to completion, by contract or otherwise, for the amount and at the expense of Contractor, and Contractor and its surety shall be liable to City for any and all excess cost sustained by City by reason of such prosecution and completion; and in such event City may take possession of, and utilize in completing the Work, all such materials, equipment, tools and plant as may be on the site of the Work and necessary therefore.
- c. When Contractor's services have been so terminated, such termination shall not affect any rights or remedies of City against Contractor then existing or which may later accrue. Similarly, any retention or payment of monies due Contractor shall not release Contractor from liability.
- d. City reserves the right, in its sole discretion and for its convenience and without cause or default on the part of Contractor, to terminate the Contract by providing written notice of such termination to Contractor specifying when such termination becomes effective. Upon receipt of such notice from City, Contractor shall: (1) immediately cease all Work; or (2) meet with City and, subject to City's approval, determine what Work shall be required of Contractor in order to bring the Project to a reasonable termination in accordance with the request of City. If City shall terminate for its convenience as herein provided, City shall: (1) compensate Contractor for all purchased materials and actual cost of Work completed to date of termination. Contractor agrees that it shall require all its Subcontractor agreements to contain a termination for convenience provision thereby releasing Contractor from its obligations to its subcontractors should City terminate this Agreement for convenience. The provision shall also contain a waiver of liability against City in the event of such termination.

- 12.1 Authority to Terminate. The City Council has the authority to terminate this Agreement on behalf of the City. In addition, the City Administrator or Brian Faust, Department Director, in consultation with the City Attorney, shall have the authority to terminate this Agreement on behalf of the City.

12.2 Right of Contractor to Terminate Contract. If, through no act or fault of Contractor, the Work is suspended for a period of more than ninety (90) days by City or under an order of court or other public authority, or City fails to act on any payment request within sixty (60) days after it is submitted, then Contractor may, upon seven (7) days written notice to City, terminate this Agreement and recover from City payment for all work executed. In addition, and in lieu of terminating this Agreement, if City has failed to make any payment as aforesaid, Contractor may upon seven (7) days notice to City stop the Work until payment is made for all amounts then due. The provisions of this paragraph shall not relieve Contractor of his obligations to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with City.

13.0 Indemnification.

To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor shall defend, indemnify and hold harmless the Board of County Commissioners of Johnson County (Board), the City, and their agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent or intentional acts, errors, or omissions of the Contractor or its subcontractors. Contractor shall also pay for all reasonable attorneys' fees, expert fees, and costs incurred by the Board and the City in the defense of such a claim.

14.0 Bonds.

14.1 Contractor shall, after receiving Notice of Award and prior to commencing the Work, furnish to City a Statutory Payment Bond, Performance Bond, and Maintenance Bond on forms approved by City and secured by a surety company acceptable to City. With each bond there shall be filed with City one copy of a "Power of Attorney" certified to include the date of the bonds.

14.2 Contractor shall notify and obtain the consent and approval of Contractor's surety for all Change Orders and written amendments, if such notice is required by Contractor's surety or by law. Contractor's execution of a Change Order or written amendments to this Agreement shall constitute Contractor's warranty to City that the surety has been notified and that the surety consents to such Change Order or written amendment; accordingly, surety shall be conclusively deemed to have been notified of such Change Order or written amendment and to have expressly consented thereto.

14.3 If Contractor's surety or any Bond furnished by Contractor is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Kansas, or it ceases to meet the requirements herein, Contractor shall within five (5) days thereafter substitute an acceptable surety and appropriate Bond.

15.0 Insurance.

- 15.1 The Contractor shall procure and maintain, at its sole expense, throughout the duration of this Agreement, insurance of such types (on an occurrence basis unless otherwise agreed to) and in at least such amounts as and not less than as required in any bid documents or other contract documents, from an insurance company licensed to do business in the State of Kansas. The Board of County Commissioners of Johnson County (Board), Kansas shall be named as an additional insured on all policies of insurance issued to the Contractor as required by the terms of his/her agreement with the City. The following minimum insurance coverage requirements shall be satisfied by the Contractor as may be necessary to protect the Contractor, the Board, the City and agents of the Board and the City against all hazards or risks of loss as hereinafter specified:
- ☐ Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
  - ☐ Commercial General Liability for bodily injury and property damage liability claims arising from the injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees or Subcontractors with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The property damage liability coverage shall contain no exclusion relative to blasting, explosion, and collapse of building or damage to underground property and/or facilities.
  - ☐ Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
  - ☐ Additional Insurance - The Contractor shall be required to purchase an Owner's Protective Liability Insurance Policy, issued on an occurrence basis and covering bodily injury (and death) and property damage, naming the City as named insured. The liability limits shall be as stated in the Instructions to Bidders or in the Special Conditions. The original policy shall be placed on file with the City and maintained during the life of the Contract. Such policy shall contain no exclusion relative to any function performed by the City or its employees and agents in connection with the Work.

- Special Hazards - Additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Special Conditions

15.2 Subcontractor's Insurance.

If a part of the Contract is to be sublet, Contractor shall either:

- 1) Cover all subcontractors in Contractor's general liability insurance policy;
- 2) Require each subcontractor not so covered to secure insurance in the minimum amounts required of Contractor which will protect subcontractor and the City against all applicable hazards or risks of loss as and in the minimum amounts designated for the Contractor.

15.3 The City shall be a named insured on such policies Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

15.4 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
- 2) Carries a Best's policyholder rating of A or better;

AND

- 3) Carries at least a Class X financial rating.

OR

Is a company mutually agreed upon by the City and Contractor.

15.5 All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.

15.6 All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.

16.0 Conflict of Interest.

Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its Work hereunder, including under 31 U.S.C.S. Section 1352. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed.

17.0 Nondiscrimination.

Contractor must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all



other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

18.0 Facilities and Equipment.

Contractor shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to complete the Project as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement.

19.0 Accessibility.

Contractor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Contractor shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

20.0 Records, Ownership and Inspection.

20.1 Ownership of Documents.

All documents prepared by Contractor in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not.

20.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Contractor acknowledges that this Agreement along with any reports and/or records provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

20.3 Maintenance of Records.

Except as otherwise authorized by the City, Contractor shall retain such documentation for a period of five (5) years after receipt of final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this five (5) year period.

21.0 Patent Fees and Royalties.

Contractor agrees to defend any claim, action or suit that may be brought against City, its governing body, officers, agents or employees for infringement of any Letters Patent of the United States arising out of the performance of this Contract or out of the use or disposal by or for the account of City of supplies furnished or Work performed hereunder, and Contractor further agrees to indemnify and hold harmless City, its governing body, officers, agents, and employees against all judgments, decrees, damages, costs and expenses recovered against it or them or sustained by it or them on account of any such actual or alleged infringement. It is understood that all royalties and fees for and in

connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment used in or furnished for the Work shall be included in the Contract Price. Final Payment to Contractor by City shall not be made while any suit or claim involving infringement or alleged infringement of any patent remains unsettled.

22.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

23.0 Compliance with Laws.

23.1 The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

23.2 Pursuant to K.S.A. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court of Johnson County, Kansas. These forms may be obtained at the Office of the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of the Contract.

24.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. In case such consent is given, Contractor shall be permitted to subcontract a portion thereof, but shall perform with its own organization, Work amounting to not less than fifty percent (50%) of the total Contract Price. The subcontracting, assignment, delegation or transfer of the Work shall in no way relieve the Contractor of its liability under this Agreement and the bonds applicable hereto.

25.0 Confidentiality.

All reports and documents prepared by Contractor in connection with the performance of this Agreement are confidential until released by City to the public. Contractor shall not make any such documents or information available to any individual or organization not employed by Contractor or City without the written consent of City before any such release.

26.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City: City of Gardner  
Attn: Tim McEldowney, P.E.  
120 E. Main Street  
Gardner, KS 66030

To Contractor:

27.0 Amendments.

27.1 This document represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

27.2 The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized by:

- a. Field Order;
- b. Engineer's review and approval of a Show Drawing or Sample;
- c. Engineer's written interpretation or clarification.

28.0 Waiver of Claims.

Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither payment of any progress or final payment by City, nor the issuance of a certificate of Substantial Completion, nor any use or occupancy of the Work or any part thereof by City, nor any act of acceptance by City nor any failure to do so, nor any correction of Defective Work by City shall constitute an acceptance of Work not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents. The making and acceptance of final payment shall constitute a waiver of all claims by Contractor against City other than those claims previously made in writing against City by Contractor, pending at the time of final payment and identified in writing by Contractor as unsettled as of the time of request for final payment.

29.0 Remedies are not Exclusive.

The duties and obligations imposed by this Agreement and the rights and remedies available hereunder to the parties hereto, including, but not limited to, the warranties, guarantees and obligations imposed upon Contractor and all of the rights and remedies available to City there under, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this

paragraph shall be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents shall survive Final Payment and termination or completion of this Agreement.

30.0 No Third Party Beneficiaries.

City and Contractor specifically agree that this Agreement is not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

31.0 Force Majeure.

City shall not be responsible for any delay or failure of performance resulting from fire, flood, other acts of God, vandalism, strike, labor dispute of a third party, domestic or international unrest, delay in receipt of supplies, energy shortage or failure, or any other cause beyond its reasonable control.

32.0 Titles.

The titles in this Agreement and the Contract Documents are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

33.0 Negotiations.

City and Contractor agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

34.0 Costs and Attorneys Fees.

If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

35.0 Severability.

If any term or portion of this Agreement or the Contract Documents is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement and the contract Documents shall continue in full force and effect.



36.0 Authority to Enter into Agreement.

Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement and the Contract Documents. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

37.0 Incorporation of Appendices.

Appendix A - General Conditions and Appendix B - Special Conditions are attached hereto and made a part hereof as if fully set out herein.

38.0 Entire Agreement.

This Agreement and the Contract Documents represent the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

39.0 Governing Law and Venue.

This Agreement and the Contract Documents shall be governed by the laws of the State of Kansas and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 5 day of March, 2021.

CITY OF GARDNER, KANSAS

CONTRACTOR

\_\_\_\_\_  
James Pruetting (City Administrator)

Robert L. Lupton VP  
(Name, Title)

ATTEST:

\_\_\_\_\_  
Sharon Rose (City Clerk)

APPROVED AS TO FORM:

\_\_\_\_\_  
Ryan Denk, City Attorney



**FEBRUARY 24TH, 2021 BID SUMMARY  
HILLTOP RIDGE BENEFIT DISTRICT PROJECT**

<b>LINEAWEAVER</b>	
PROJECT	BID TOTAL COST
PW2005 - PUBLIC OFFSITE SANTIARY SEWER IMPROVEMENTS	\$ 265,108.00
PW2006 - FIRST PLAT PUBLIC STORM AND SANITARY SEWER IMPROVEMENTS	\$ 460,147.00
<b>TOTAL</b>	<b>\$ 725,255.00</b>

<b>EMERY SAPP &amp; SONS</b>	
PROJECT	BID TOTAL COST
PW2005 - PUBLIC OFFSITE SANTIARY SEWER IMPROVEMENTS	\$ 351,274.33
PW2006 - FIRST PLAT PUBLIC STORM AND SANITARY SEWER IMPROVEMENTS	\$ 371,869.06
<b>TOTAL</b>	<b>\$ 723,143.39</b>

<b>PYRAMID EXCAVATING</b>	
PROJECT	BID TOTAL COST
PW2005 - PUBLIC OFFSITE SANTIARY SEWER IMPROVEMENTS	\$ 319,141.00
PW2006 - FIRST PLAT PUBLIC STORM AND SANITARY SEWER IMPROVEMENTS	\$ 487,324.00
<b>TOTAL</b>	<b>\$ 806,465.00</b>

<b>KS HEAVY CONSTRUCTION</b>	
PROJECT	BID TOTAL COST
PW2005 - PUBLIC OFFSITE SANTIARY SEWER IMPROVEMENTS	\$ 437,395.00
PW2006 - FIRST PLAT PUBLIC STORM AND SANITARY SEWER IMPROVEMENTS	\$ 650,998.00
<b>TOTAL</b>	<b>\$ 1,088,393.00</b>

<b>SDI</b>	
PROJECT	BID TOTAL COST
PW2005 - PUBLIC OFFSITE SANTIARY SEWER IMPROVEMENTS	\$ 377,796.00
PW2006 - FIRST PLAT PUBLIC STORM AND SANITARY SEWER IMPROVEMENTS	\$ 457,742.00
<b>TOTAL</b>	<b>\$ 835,538.00</b>

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 4

**MEETING DATE:** MARCH 15, 2021

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**Agenda Item:** Consider a recommendation to appoint City of Gardner representative to the Kansas Municipal Energy Agency Board of Directors

**Strategic Priority:** Asset Management  
Fiscal Stewardship

**Department:** Utilities - Electric

---

### **Board/Committee Recommendation:**

On March 4, 2021, the Utility Advisory Commission approved a recommendation to the City Council to reappoint Matt Ponzer as Director #1, with voting rights, on the Kansas Municipal Energy Agency Board of Directors.

### **Staff Recommendation:**

Staff recommends reappointing Matt Ponzer as Director #1, with voting rights, on the KMEA Board of Directors.

### **Background:**

The City of Gardner is a member of KMEA. In accordance with Section 5.1 of KMEA's Bylaws (see attached), each KMEA member City shall have two (2) Directors and an Alternate on its Board of Directors. Each Director so selected shall (a) reside within the territory served by the electric utility of the selecting Member; or (b) be an employee of the selecting Member. Each Director shall meet all other requirements of the Act and the Agreement. Each Director will serve for two (2) years; however, terms are staggered in order to maintain continuity on the Board of Directors.

The following staff members have been appointed to represent the City of Gardner on the Kansas Municipal Energy Agency Board of Directors:

1. Director #1: Matt Ponzer, term expiring April 30, 2021
2. Director #2: Gonzalo Garcia, term expiring on April 30, 2022
3. Alternate: Bruce Baldwin, term expiring on April 30, 2022

There are two meetings per year and they are generally held in the Wichita area. The spring meeting coincides with the Kansas Municipal Utilities annual conference. At least one representative from the City of Gardner shall attend each of these meetings.

### **Attachments:**

- March 4, 2021, UAC Staff Report
- March 4, 2021, UAC Draft Meeting Minutes Excerpt
- KMEA By-Laws
- Certificate of Appointment for Director #1

**Financial Impact:**

Travel expenses to attend board meetings will be paid from the Electric budget.

**Suggested Motion:**

Reappoint Matt Ponzer as Director #1, with voting rights, on the Kansas Municipal Energy Agency Board of Directors for a term expiring April 30, 2023

## UTILITY ADVISORY COMMISSION STAFF REPORT

## CONSENT ITEM # 2

**MEETING DATE:** MARCH 4, 2021

**STAFF CONTACT:** GONZALO GARCIA, UTILITIES DIRECTOR

---

**AGENDA ITEM:** Consider appointment of City of Gardner representative as Director #1, with voting rights to the Kansas Municipal Energy Agency (KMEA) Board of Directors

---

### **Background:**

The City of Gardner is a member of KMEA. In accordance with Section 5.1 of KMEA's Bylaws (see attached), each KMEA member City shall have two (2) Directors and an Alternate on its Board of Directors. Each Director so selected shall (a) reside within the territory served by the electric utility of the selecting Member; or (b) be an employee of the selecting Member. Each Director shall meet all other requirements of the Act and the Agreement. Each Director will serve for two (2) years; however, terms are staggered in order to maintain continuity on the Board of Directors.

Currently, the following persons have been appointed to represent the City of Gardner on the Kansas Municipal Energy Agency Board of Directors:

1. Director #1: Matt Ponzer, term expiring April 30, 2021
2. Director #2: Gonzalo Garcia, term expiring on April 30, 2022
3. Alternate: Bruce Baldwin, term expiring on April 30, 2022

There are two meetings per year and they are generally held in the Wichita area. The spring meeting coincides with the Kansas Municipal Utilities annual conference. At least one representative from the City of Gardner shall attend each of these meetings.

### **Staff Recommendation:**

Approve a recommendations to the City Council to reappoint Matt Ponzer as Director #1, for a term expiring April 30, 2023, with voting rights to the Kansas Municipal Energy Agency (KMEA) Board of Directors

### **Attachments:**

- KMEA By-Laws

**RECORD OF PROCEEDINGS  
OF THE UTILITY ADVISORY COMMISSION  
GARDNER, KANSAS**  
Page No. 2021-04  
March 4, 2021

The Utilities Advisory Commission of Gardner, Kansas, met in Regular Session on March 4, 2021, at City Hall. Present were Chairperson Kristina Harrison, Commissioner Jake Wells, Commissioner Bryce Augustine, Utilities Department Director Gonzalo Garcia and Administrative Assistant Erin Groh. Commissioner Gary Williams and Commissioner Barbara Coleman were not in attendance.

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Chairperson Kristy Harrison.

**PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the January 7, 2021, meeting of the Utility Advisory Commission.**

**NEW BUSINESS**

1. **Consider the appointment of Matt Ponzer as Director 1 to the KMEA Board of Directors.**

Commissioners approved a recommendation to City Council to approve the appointment of Matt Ponzer to serve as a City of Gardner representative as Director #1 with voting rights to the Kansas Municipal Energy Agency (KMEA) Board of Directors.

Motion by Commissioner Augustine, seconded by Commissioner Wells, to forward the appointment of Matt Ponzer as Director #1 to City Council.

Motion carried 3-0 Aye (2 absent)

2. **Consider a recommendation to the City Council to award a service contract for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project.**

Director Garcia presented the staff report. Hillsdale Water Treatment Plant had two retention basins (commonly referred to as ponds or lagoons) used to hold all sludge generated from back washed that came from clarifiers and backwashing of the media filters. Historically, one pond was cleaned out every year. In September 2019, both the west pond and east pond at Hillsdale WTP were cleaned out. The east pond was cleaned out and removed completely to make room for the plant expansion. The expansion project constructed two new waste residual ponds on site and those are tested and approved for operation. Therefore, this project will clean the existing west holding pond, so that the expansion project can complete the appropriate abandonment process outlined by KDHE and repurpose this area for the expansion project to use.

Two bids were received for the project. One from Denali Water Solutions, LLC for \$54,779 and one from Hodges Farms & Dredging, LLC for \$73,739. Denali had the lowest price, and after staff reviewed the bids, they would like to recommend Denali to work on the project.

**RECORD OF PROCEEDINGS  
OF THE UTILITY ADVISORY COMMISSION  
GARDNER, KANSAS**  
Page No. 2021-05  
March 4, 2021

Motion by Commissioner Augustine, seconded by Commissioner Wells to forward a recommendation to City Council to award a service contract to Denali Water Solutions, LLC, in the amount not to exceed \$54,779 for the 2021 Hillsdale Water Treatment Plant Waste & Residuals Pond Cleanout Project.

Motion carried 3-0 Aye (2 absent)

## EXCERPT OF BYLAWS OF KANSAS MUNICIPAL ENERGY AGENCY

### ARTICLE V

#### BOARD OF DIRECTORS

---

**Section 5.1. Selection of Directors.** The property and business of the Agency shall be managed by the Board of Directors of the Agency. The Board of Directors shall consist of two (2) Directors for each Member, provided that there shall be not less than seven (7) Directors. The Directors shall be selected by the governing bodies of the Members. In the event that the number of Members is less than seven (7), each Member shall be represented by the number of Directors which would constitute a Board of Directors of not less than seven (7) Members, provided that each Member shall select the same number of Directors. Each Member must designate the two (2) Directors as "Director-1" and "Director-2".

The term of each Director shall be for a period of two (2) years except that the initial term of a number equal to one half of the Directors, comprised of those individuals designated as Director-2, shall be selected to a term of one (1) year. **Any Director selected by a Member may be removed at any time by the Member selecting the Director. Each Director so selected shall (a) reside within the territory served by the electric utility of the selecting Member; or (b) be an employee of the selecting Member. Each Director shall meet all other requirements of the Act and the Agreement.** Any such selection (other than a replacement selection) shall occur prior to the annual meeting of the Agency. Written evidence of selection shall be forwarded by the City Clerk or other authorized official of the Member to the Agency in writing prior to the annual meeting. Each Director shall continue in office until a successor is selected in accordance with this **Article V**.

**Section 5.2. Voting Powers.** Each Member shall be entitled to one Director vote on the Board of Directors which shall be equal to the vote of every other Member. Such vote shall be cast on behalf of the Member by Director-1 of such Member, if present; if such Director-1 is not present then by Director-2. Other than actions required in **Article XII** hereof, all actions of the Board of Directors shall be made upon affirmative vote of a majority of the Directors entitled to vote and voting on such action.

**Section 5.3. Compensation.** Except as may be specifically authorized by the Board of Directors, no Director shall receive payment from the Agency for any time spent in attending meetings of the Board of Directors or otherwise conducting business of the Agency. To the extent that funds are available, the Board of Directors, the Executive Committee, or the General Manager may authorize payment of expenses for travel in connection with the business of the Agency for other than meetings of the Board of Directors pursuant to the Act.

**Section 5.4. Vacancies.** In the event of a vacancy on the Board of Directors the appropriate Member shall select an individual to fill such vacancy for the remainder of the term in accordance with the same procedure as set forth for the selection of the initial Director. Written evidence of selection shall be provided to the Agency before voting privileges will take effect.

**Section 5.5. Removal or Resignation.** A Director may be removed only by the governing body of the Member selecting such Director. Any Director may resign by providing notice to the governing body of the Member the Director represents. The governing body shall certify to the Agency such removal or resignation of a Director.

**Section 5.6. Successor Director.** Upon removal or resignation of a Director, a successor Director will be selected by the governing body in the same manner as the original Director was selected, and the successor Director will be certified by the governing body to the Agency in the same manner as the original Director was certified. The successor Director shall serve for the remainder of the unexpired term of the original Director, subject to the rights of the governing body and such successor Director under **Section 5.5** of these Bylaws.

**Section 5.7. Alternates.** Each Member shall designate an Alternate or Alternates for the Director in the same manner as the Directors are designated. In the event any Director is unable to attend a meeting, any duly appointed Alternate may substitute at the meeting of the Board of Directors for such Director. The Member shall provide the Agency with written notification of the selection of such Alternate or Alternates. In the event neither Director designated by the Member is present, the Alternate may vote on behalf of such Member unless the governing body of the Member has specifically prohibited the Alternate from voting on the Member's behalf. If more than one Alternate is designated by the Member, the governing body shall specify in its designation the order in which the Alternates shall have voting rights on behalf of the Member.





## CERTIFICATE – DIRECTOR-1

### KANSAS MUNICIPAL ENERGY AGENCY BOARD OF DIRECTORS

This certificate duly documents the appointment of a **Director-1** to serve on the Board of Directors of the Kansas Municipal Energy Agency (KMEA) as provided for in Article V, Section 5.1 of KMEA's Bylaws.

I, the undersigned City Clerk of the City of \_\_\_\_\_, Kansas, a member of KMEA, do hereby certify that at a meeting of the City Governing Body duly held on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_; and

Name: _____	Title: _____
Address: _____	
City: _____	State: _____ Zip Code: _____
Office Phone: _____	Cell Phone: _____ Fax: _____
Email Address: _____	

who (a) resides within the territory served by the City's electric utility; or (b) is an employee of the City, was appointed to serve on the KMEA Board of Directors for a two-year term beginning May 1, 2021.

I further certify that the foregoing appointment is reflected in the official Minutes of the Governing Body of the City for the meeting on the date indicated above.

This certificate is given this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_, Kansas

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 5

**MEETING DATE:** MARCH 15, 2021

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**AGENDA ITEM:** Consider authorizing the execution of a service contract with Denali Water Solutions, LLC. for the 2021 Hillsdale WTP Waste and Residuals Pond Cleanout Project

**Strategic Priority:** Infrastructure and Asset Management

**Department:** Utilities – Water Division

---

**Board/Committee Recommendation:**

On March 4, 2021, the Utility Advisory Commission approved a recommendation to the City Council to award a service contract with Denali Water Solutions, LLC. in the amount of \$54,779.00 for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project.

**Staff Recommendation:**

Staff recommends authorizing the City Administrator to execute a service contract with Denali Water Solutions, LLC. in the amount of \$54,779.00 for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project.

**Background:**

The Hillsdale Water Treatment Plant previously had two retention basins (commonly referred to as ponds or lagoons) used to hold all sludge generated from back washes that came mainly from clarifiers and backwashing of the media filters. Historically, one pond was cleaned out every year.

In September 2019, both the west pond and east pond at Hillsdale WTP were cleaned out. The east pond was cleaned out and removed completely to make room for the plant expansion. The expansion project has constructed two new waste residual ponds on site, and they have been tested and approved for operation. This project will clean the existing west holding pond so that the expansion project can complete the appropriate abandonment process outlined by KDHE and repurpose this area for the expansion project.

**Bidding Process:**

An 'Invitation to Bid' was advertised on the City of Gardner website, Drexel website, and published with the *Legal Record* on January 19, 2021. Staff received two bids, as listed below.

COMPANY	Bid
Denali Water Solutions, LLC	\$54,779.00
Hodges Farms & Dredging, LLC	\$73,739.00

Utilities Staff reviewed the bid provided by Denali Water Solutions, LLC. and determined that they meet or exceed all of the requirements set out in the 'Invitation to Bid'.

**Financial Impact:**

Funding for this project is available in the Water Treatment budget.

**Attachments included:**

- a. March 4, 2021, UAC Staff Report
- b. March 4, 2021, UAC Draft Meeting Minutes Excerpt
- c. IFB Response – Denali Water Solutions, LLC.
- d. Construction Agreement – 2021 Hillsdale WTP Waste and Residuals Pond Cleanout.

**Suggested Motion:**

Authorize the City Administrator to execute a service contract with Denali Water Solutions, LLC for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project, in the amount of \$54,779.00

## **West Pond**



**UTILITY ADVISORY COMMISSION STAFF REPORT****NEW BUSINESS ITEM #1****MEETING DATE: MARCH 4, 2021****STAFF CONTACT: GONZ GARCIA, UTILITIES DIRECTOR**

---

**AGENDA ITEM:** Consider a recommendation to the City Council to award a service contract for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project.

---

**Background:**

Hillsdale Water Treatment Plant had two retention basins (commonly referred to as ponds or lagoons) used to hold all sludge generated from back washes that came mainly from clarifiers and backwashing of the media filters. Historically, one pond was cleaned out every year.

In September 2019, both the west pond and east pond at Hillsdale WTP was cleaned out. The east pond was cleaned out and removed completely to make room for the plant expansion. The expansion project constructed two new waste residual ponds on site and those are tested and approved for operation. Therefore, this project will clean the existing west holding pond, so that the expansion project can complete the appropriate abandonment process outlined by KDHE and repurpose this area for the expansion project to use.

**Bidding Process:**

The Invitation for Bids was advertised on the City of Gardner website, Drexel website, and published with the Legal Record on January 19, 2021. A total of two bids were received.

COMPANY	Installed Price
Denali Water Solutions, LLC	\$54,779.00
Hodges Farms & Dredging, LLC	\$73,739.00

The Utilities staff reviewed the bid provided by Denali Water Solutions, LLC. and they meet and exceed all of the requirements set out in the Request for Bids.

**Financial Impact:**

The 2021 Budget includes \$80,000 in the Water Treatment Outsourced Services budget for Sludge Removal.

**Staff Recommendation:**

Consider a recommendation to the City Council to award a service contract to Denali Water Solutions, LLC. in an amount not to exceed \$54,779.00 for the 2021 Hillsdale WTP Waste & Residuals Pond Cleanout Project.

**Attachments:**

- a. Bid Tab
- b. Denali Water Solutions, LLC Bid package submittal



## West Pond



**RECORD OF PROCEEDINGS  
OF THE UTILITY ADVISORY COMMISSION  
GARDNER, KANSAS**  
Page No. 2021-04  
March 4, 2021

The Utilities Advisory Commission of Gardner, Kansas, met in Regular Session on March 4, 2021, at City Hall. Present were Chairperson Kristina Harrison, Commissioner Jake Wells, Commissioner Bryce Augustine, Utilities Department Director Gonzalo Garcia and Administrative Assistant Erin Groh. Commissioner Gary Williams and Commissioner Barbara Coleman were not in attendance.

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Chairperson Kristy Harrison.

**PLEDGE OF ALLEGIANCE**

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the January 7, 2021, meeting of the Utility Advisory Commission.**

**NEW BUSINESS**

1. **Consider the appointment of Matt Ponzer as Director 1 to the KMEA Board of Directors.**

Commissioners approved a recommendation to City Council to approve the appointment of Matt Ponzer to serve as a City of Gardner representative as Director #1 with voting rights to the Kansas Municipal Energy Agency (KMEA) Board of Directors.

Motion by Commissioner Augustine, seconded by Commissioner Wells, to forward the appointment of Matt Ponzer as Director #1 to City Council.

Motion carried 3-0 Aye (2 absent)

2. **Consider a recommendation to the City Council to award a service contract for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project.**

Director Garcia presented the staff report. Hillsdale Water Treatment Plant had two retention basins (commonly referred to as ponds or lagoons) used to hold all sludge generated from back washed that came from clarifiers and backwashing of the media filters. Historically, one pond was cleaned out every year. In September 2019, both the west pond and east pond at Hillsdale WTP were cleaned out. The east pond was cleaned out and removed completely to make room for the plant expansion. The expansion project constructed two new waste residual ponds on site and those are tested and approved for operation. Therefore, this project will clean the existing west holding pond, so that the expansion project can complete the appropriate abandonment process outlined by KDHE and repurpose this area for the expansion project to use.

Two bids were received for the project. One from Denali Water Solutions, LLC for \$54,779 and one from Hodges Farms & Dredging, LLC for \$73,739. Denali had the lowest price, and after staff reviewed the bids, they would like to recommend Denali to work on the project.

**RECORD OF PROCEEDINGS  
OF THE UTILITY ADVISORY COMMISSION  
GARDNER, KANSAS**  
Page No. 2021-05  
March 4, 2021


Motion by Commissioner Augustine, seconded by Commissioner Wells to forward a recommendation to City Council to award a service contract to Denali Water Solutions, LLC, in the amount not to exceed \$54,779 for the 2021 Hillsdale Water Treatment Plant Waste & Residuals Pond Cleanout Project.

Motion carried 3-0 Aye (2 absent)



Bid Submitted by:

# Denali



## WATER SOLUTIONS

3308 Bernice Avenue Russellville, Arkansas 72802 P: (479) 498-0500

Request for Bid:

2021 Hillsdale WTP

Waste and Residuals Pond Cleanout

Submitted to:

Ric Gere, Utilities Staff Engineer  
City of Gardner - Utilities Department  
1150 E Santa Fe Street  
Gardner, KS 66030  
Phone: 913.568.8123

Submitted by courier



Due Date:

February 2, 2021 at 12:00 PM





January 29, 2020

*Submitted via Courier*

Ric Gere, Utilities Staff Engineer  
City of Gardner - Utilities Department  
1150 E Santa Fe Street  
Gardner, KS 66030

RE: ***Invitation to Bid – 2021 Hillsdale WTP Waste and Residuals Pond Cleanout***

Mr. Gere,

Denali Water Solutions LLC ("Denali" or "Denali Water") is the respondent to the 2021 Hillsdale WTP Waste and Residuals Pond Cleanout. At Denali, our goal is to continuously exceed our Customers' expectations by providing residuals management services at the highest industry standards, driven by our team of seasoned residuals management professionals, our readily available assets, and backed by our outstanding environmental and safety record.

The core of our approach presented in this bid response is to exceed the City of Gardner's expectations as a valued team member through our unparalleled experience in managing and operating biosolids projects. Denali has consistently checked all the boxes when it comes to operations, maintenance, regulatory aspects of biosolids. The Denali team approach provides the opportunity for the City of Gardner to engage trusted biosolids experts throughout the term of the project.

The company prides itself in putting the customers' needs, the environment and safety first. This philosophy has been a primary driver for Denali's success as an environmental services company, and it is the reason Denali will continue to be the premier choice for responsive and ethical residuals management services for public, private and industrial customers across the United States.

Denali is prepared to enter into an agreement with the City of Gardner Utilities Department for providing the removal and disposal of waste water and residuals from the Hillsdale Water Treatment Plant. Denali's employees, partners and experience clearly demonstrates our strength and ability to increase the performance level beyond expectations.

I would like to thank you for reviewing the contents of our bid submittal. Should you need additional clarification, please contact me at 315-374-8645 or by email at [jeffrey.leblanc@denaliwater.com](mailto:jeffrey.leblanc@denaliwater.com). Again, thank you for the opportunity to submit our bid to the City of Gardner - Utilities Department and we look forward to the next steps.

Thank you.

Very truly yours,

  
Jeffrey J. LeBlanc  
President



**PROPOSER'S AFFIDAVIT**  
**2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

This completed Proposer's Affidavit form must be submitted with the Proposer's Bid and will become a part of any agreement that may be awarded. This Proposer's Affidavit must be signed by an authorized representative. If the Proposal Signature Form is not signed by an authorized representative or submitted with the proposal, the proposal is considered non-responsive.

**Please type or print:**

Legal Name of Person, Firm or Corporation: Denali Water Solutions LLC

Address: 3308 Bernice Avenue PO Box 3036

City/State/Zip: Russellville, AR 72802 Russellville, AR 72811

Contact Person: Jeffrey J. LeBlanc

Phone: (315) 374-8645 Email: jeffrey.leblanc@denaliwater.com

Federal ID #: 26-1757145

Type of Organization: ☐ Individual ☐ Small Business ☐ Non-profit  
☐ Partnership ☒ Corporation (LLC) ☐ Joint Venture

Attach copies of all such licenses, permits or certificates issued to the business entity.

The undersigned person by his/her signature affixed hereon warrants that:

- A. He/she is an officer of the organization.
- B. He/she has been specifically authorized to offer a bid in full compliance with all requirements, and conditions, as set for in this Invitation for Bid.
- C. The Proposer complies with all of the requirements of the Bid.
- D. The Proposer certifies all products and services in the bid meet or exceed all requirements of this specification as set forth in the Bid and that all exceptions are clearly identified.
- E. He/she received the following addenda to the Invitation to Bid (indicate number and date of each):

Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_  
Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_  
Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_

Authorized Signature:  Date: 01/29/2021

(Title)

Jeffrey J. LeBlanc, President

Subscribed and sworn to before me this 29TH day of January, 2021 by \_\_\_\_\_.

  
(Signature of Notary Public)

My commission expires: Sept. 29, 2024

(seal of) **GARY M. ALDRIDGE**

Notary Public - State of New York

No. 01AL6194373

Qualified in Monroe County

My Commission Expires Sept. 29, 2024



## BID FORM

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

All Bid Pricing is to be in accordance with all General Conditions, Special Conditions, and Minimum Specifications as stated within this Request for Bid. Failure to complete the following form(s) shall result in your Bid being deemed non-responsive and rejected without any further evaluation.

The undersigned Bidder hereby proposes to furnish all material, supplies, transportation, tools, equipment and necessary labor to construct, install, plant and complete all Work stipulated in, required by, and in conformity with the proposed Contract Documents, incorporated herein (including all documents referred to therein) and any and all written addenda thereto, for and in consideration of the unit prices as follows:

**BIDDING COMPANY:** Denali Water Solutions LLC

Item	Description	Unit	Total Cost
1	Sludge Removal and disposal, haul and reestablishment of areas damaged during the project.	LS (Lump Sum)	\$ 54,779.00

**TOTAL BID:** \$ 54,779.00

1. In submitting this Bid, the undersigned declares that it is of lawful age and executed this Bid on behalf of the Bidder named herein, and that the undersigned has lawful authority to do so. The undersigned further declares that it has not directly or indirectly entered into any agreement, expressed or implied, with any Bidder or Bidders, having for its object the controlling of the price or amount of such Bid or any Bids, the limiting of the Bid or Bidders, the parceling or farming out to any Bidder or Bidders, or other persons, of any part of the Agreement or any part of the subject matter of the Bid or Bids or of the profits thereof, and that it has not and will not divulge the sealed Bid to any person whomsoever, except those having a partnership or other financial interest with Bidder in said Bid or Bids, until after the sealed Bid or Bids are opened.
2. The undersigned further declares that it has carefully examined the Notice to Bidders and other Contract Documents, and that it has inspected the actual location of the Work, together with the local sources of supply, and has satisfied itself as to all conditions and quantities, and understands that in signing this Bid Form the undersigned on behalf of the Bidder waives all right to plead any misunderstanding regarding the same.



BID FORM

2021 Hillsdale WTP  
Waste and Residuals Pond Cleanout

3. The undersigned hereby agrees to furnish the required bonds and insurance certificates and execute the Agreement within ten (10) calendar days from and after Notice of Award of the Agreement is delivered to the Bidder, and failure of the Bidder to do so shall constitute a default, and the City may thereafter take such steps to protect its legal rights as it deems in its best interest, including, but not limited to, enforcement of its rights as performance.
5. It is understood that the City will pay monthly pay estimates submitted in accordance with the City of Gardner's claims policy and approved by the Utilities Director, all as provided in the Contract Documents.
6. The undersigned acknowledges receipt of the Plans and Specifications for the Project including the following written addenda (insert "none" if none were received):

NONE

Dated this 29th day of January, 2021.

Denali Water Solutions LLC

[Contractor]

By:

Jeffrey J. LeBlanc, President

Title

3308 Bernice Avenue

Address

Russellville, AR 72802

City, State, Zip

(315) 374-8645

Telephone Number

jeffrey.leblanc@denaliwater.com

E-Mail [if available]

(585) 358-4525

Facsimile Number [if available]



## BIDDER'S QUALIFICATION STATEMENT

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

1. The name, address, telephone number/fax number/email address of the bidder.

Name: Denali Water Solutions LLC

Address: 3308 Bernice Avenue, Russellville, AR 72802

Phone/Fax/Email: (315) 374-8645 / (585) 358-4525 / jeffrey.leblanc@denaliwater.com

2. Years in business 6 years as Denali (25 years experience in the industry)

3. List of contractors owned equipment available for this project. Attach as separate submittal, if necessary.

See Attached Equipment List

4. List of equivalent type projects within the last four (4) years. Attach as separate submittal, if necessary.

i. Name of Client: City of Houston, TX Date of Project: \_\_\_\_\_

Contact Person: Andrew Molly, P.E. Phone: (832) 395-3785

Description of Project: Dewatering and Land Application

ii. Name of Client: Little Rock Water Reclamation Authority Date of Project: \_\_\_\_\_

Contact Person: Scott Kirby Phone: (501) 804-4758

Description of Project: Biosolids Removal and Beneficial Use

iii. Name of Client: City of Edmond, OK Date of Project: \_\_\_\_\_

Contact Person: Kris Neifing Phone: (405) 216-7696

Description of Project: Lagoon Cleanout



5. List of person(s) who will supervise and be available to perform the work on this project and the number of years' experience.

Role:	Names:	Years Experience:
Project Manager:	Jason Golden	14
Superintendent:		
Foreman:		
Other Personnel:		

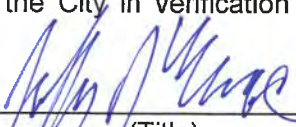
6. List of Proposed Major Subcontractors:

Each bidder shall enter in the space provided the name(s) of major subcontractors the bidder proposes to employ and the type of work the subcontractor will perform. A major subcontractor is defined as a subcontractor whose subcontract constitutes approximately five (5) percent or more of the total contract price.

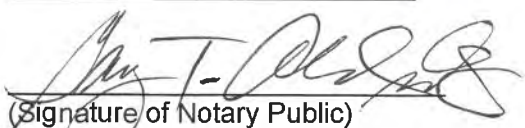
Subcontractor	Address	Phone #	Type/Scope of Work
Not Applicable			

7. Such additional information as will assist the City in determining whether the bidder is adequately prepared to fulfill the contract. Attach a separate submittal, if necessary.

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of bidder's qualifications.

Authorized Signature:  Date: 01/29/2021  
(Title)  
Jeffrey J. LeBlanc, President

Subscribed and sworn to before me this 29th day of January, 2021 by

  
(Signature of Notary Public)

My commission expires: Sept. 29, 2024

(seal, if any)  
**GARY T. ALDRIDGE**  
Notary Public - State of New York  
No. 01AL6194373  
Qualified in Monroe County  
My Commission Expires Sept. 29, 2024



## SUBCONTRACTOR'S QUALIFICATION STATEMENT

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

Please fill out a form for each subcontractor the contractor proposes to employ. Copy this form if additional forms are required and attach as separate submittals to the Proposal.

1. The name, address, telephone number/fax number/email address of the Subcontractor.

Name: NOT APPLICABLE

Address: \_\_\_\_\_

Phone/Fax/Email: \_\_\_\_\_

2. Years in business \_\_\_\_\_

3. List of Subcontractors owned equipment available for this project. Attach as separate submittal, if necessary.

\_\_\_\_\_  
\_\_\_\_\_

4. List of equivalent type projects within the last four (4) years. Attach as separate submittal, if necessary.

i. Name of Client: \_\_\_\_\_ Date of Project: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Description of Project: \_\_\_\_\_  
\_\_\_\_\_

ii. Name of Client: \_\_\_\_\_ Date of Project: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Description of Project: \_\_\_\_\_  
\_\_\_\_\_

iii. Name of Client: \_\_\_\_\_ Date of Project: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Description of Project: \_\_\_\_\_  
\_\_\_\_\_

5. List of person(s) who will supervise and be available to perform the work on this project and the number of years' experience.

Role:	Names:	Years experience:
Project Manager		
Superintendent		
Foreman:		
Other Personnel:		

6. Such additional information as will assist the City in determining whether the bidder is adequately prepared to fulfill the contract. Attach a separate submittal, if necessary.

---

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of subcontractor's qualifications.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Title)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by

\_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public) (seal, if any)

My commission expires: \_\_\_\_\_





**CERTIFICATE OF NONDISCRIMINATION  
MANDATORY PROVISIONS**

**2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

K.S.A. § 44-1030(a) provides that every contract for or on behalf of the City of Gardner, Kansas for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees to the following:

- (1) that the contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, age, national origin or ancestry;
- (2) that in all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer," or similar phrase as approved by the state commission;
- (3) that if the contractor fails to comply with the manner in which the contractor reports to the state commission in accordance with the provision of K.S.A. § 44-1031 and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City of Gardner;
- (4) that if the contractor is found guilty of a violation of the Kansas Act Against Discrimination under decision or order of the state commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City of Gardner; and
- (5) that the contractor shall include the provisions of K.S.A. § 44-1030(a) subsections (1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of K.S.A. § 44-1030(a) shall not apply to a contract entered into by a contractor: (1) who employs fewer than four (4) employees during the term of such contract; or (2) whose contracts with the City of Gardner cumulatively totals \$5,000 or less during the same fiscal year.

**By signing this Certificate of Nondiscrimination, contractor acknowledges inclusion of the requirements of K.S.A. 44-1030(a) in the base contract and in all subcontracts.**

DATE: 01/29/2021

Denali Water Solutions LLC / Jeffrey J. LeBlanc

Contractor/Principal

By:

Signature

CORPORATE SEAL

President

(Official Title of Signer)



NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

2021 Hillsdale WTP Waste and Residuals Pond Cleanout

STATE OF New York  
COUNTY OF Monroe

Jeffrey J. LeBlanc, being first duly sworn deposes and says that:

- (1) He is President of Denali Water Solutions LLC, the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees of parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Gardner, KS or any person interested in the proposed Contract;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

By: 

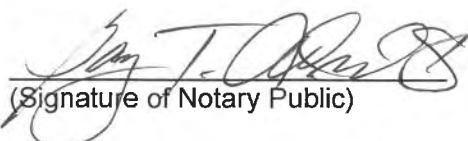
Name: Jeffrey J. LeBlanc

Title: President

Bidder: Denali Water Solutions LLC

Subscribed and sworn to before me this 29th day of January, 2021 by

Jeffrey J. LeBlanc

  
(Signature of Notary Public)

My commission expires: Sept. 29, 2024

(seal, if any)

GARY T. ALDRIDGE  
Notary Public - State of New York  
No. 01AL6194373  
Qualified in Monroe County  
My Commission Expires Sept. 29, 2024



## BID BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

**KNOW ALL MEN BY THESE PRESENTS**, that Denali Water Solutions LLC as Principal, hereinafter called the Principal, and Argonaut Insurance Company a corporation duly organized under the laws of the State of IL as Surety, hereinafter called the Surety, are held and firmly bound unto the City of Gardner Kansas, as Obligee, hereinafter called the Obligee, in the sum of Five Percent of Amount Bid Dollars (\$ 5% ), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal has submitted a bid for the following project:

**PROJECT: 2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

**NOW THEREFORE**, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this/her obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this/her 2nd day of February, 2021.

Denali Water Solutions LLC

[SEAL]

[Contractor/Principal]

Jeffrey D. LeBlanc, President  
[Title]

ATTEST:

[Secretary]

Gary Aldridge, Project Assistant

Argonaut Insurance Company

[Surety Company]

[SEAL]

By:

Sharon A. Foulk, [Attorney-in-fact]

State of Illinois } ss:  
County of Cook

On this 2<sup>nd</sup> day February in the year two thousand twenty one, before me, Kathleen Moesle-Weaver, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Sharon A. Foulk known to me to be the duly authorized Attorney-in-fact of the Argonaut Insurance Company and the same person whose name is subscribed to the within instrument as the Attorney-in-fact of said Company and that Sharon A. Foulk duly acknowledged to me that she subscribed the name of the Argonaut Insurance Company and thereto as Surety and her own name as Attorney-in-fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

1/7/2024  
Notary Public in and for Kathleen Moesle-Weaver  
City, State of Rolling Meadows, Illinois



**Argonaut Insurance Company**  
**Deliveries Only: 225 W. Washington, 24th Floor**  
**Chicago, IL 60606**

**United States Postal Service: P.O. Box 469011, San Antonio, TX 78246**

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

William T. Krumm, Sharon A. Foulk, Jodie Sellers, Patrick M. Gallagher, Karen E. Socha, Kathleen Weaver, Jon A. Schroeder

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$85,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.

Argonaut Insurance Company



by: \_\_\_\_\_

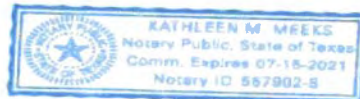
Joshua C. Betz, Senior Vice President

STATE OF TEXAS

COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



*Kathleen M. Meeks*

(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 2nd day of February, 2020.



*James Bluzard*

James Bluzard, Vice President-Surety

THIS DOCUMENT IS NOT VALID UNLESS THE WORDS ARGO POWER OF ATTORNEY ARE IN BLUE. IF YOU HAVE QUESTIONS  
ON AUTHENTICITY OF THIS DOCUMENT CALL (210) 321 - 8400.





## MAINTENANCE BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

---

#### KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_ as the "Principal," hereinafter referred to as "Contractor," and \_\_\_\_\_ as and hereinafter referred to as the "Surety," a corporation organized under the laws of the State of \_\_\_\_\_ and authorized to transact business in the State of Kansas, are held and firmly bound unto the CITY OF GARDNER, KANSAS hereinafter referred to as "City," in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the payment of which sum, well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

THE CONDITIONS OF THIS BOND are such that:

WHEREAS, Contractor has executed a written Agreement, including the Contract Documents, with City to construct certain improvements referred to as **2021 Hillsdale WTP Waste and Residuals Pond Cleanout**, more particularly described in the Agreement and the Contract Documents dated \_\_\_\_\_, 20\_\_\_\_, the Agreement and the Contract Documents are made a part hereof by reference as if fully set out herein.

The Contractor, upon completion of the Agreement and upon acceptance by the City of Gardner, in accordance with the Contract Documents, approved plans and specifications with no unacceptable deviations thereof, has agreed to guarantee and maintain the construction and installation, including all materials and workmanship, for the period of two years beginning on the date that each City so accepts said work, said date being the formal acceptance date.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alternation or addition to the terms of the Agreement or other Contract Documents, Specifications and Plans, to the work to be performed thereunder, or the specifications accompanying the same, shall in any way effect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the specification. Surety further agrees that any person to whom there is due any sum for labor or material furnished, as herein before stated, or said person's assigns, may bring action on this bond for the recovery of said indebtedness; PROVIDED, that no action shall be brought on said bond after twenty-four (24) months from the completion of said public improvements.

NOW, THEREFORE, if Contractor has constructed and completed or caused to be constructed and completed the entire improvement in strict compliance with the Agreement and Contract Documents, including all documents incorporated therein, between City and Contractor, and all applicable laws, rules, and regulations such as, but not limited to, those set forth in the Code of the City including the Minimum Standards for the Design and Construction of Streets, Sanitary Sewers, Water Lines, and

Storm Drainage Improvements, completed to the satisfaction of the City Engineer and with such materials and in such manner that the same shall endure without need of repairs or maintenance for a period of (2) two years from and after the completion and acceptance by City's governing Body; and if said improvement shall actually endure without the need of repairs or maintenance for the period of (2) two years from and after the completion and acceptance thereof as aforesaid, then this obligation shall be null and void.

PROVIDED, that if the improvement requires repairs or maintenance within such (2) two year period then this obligation shall remain in full force and effect and Contractor and the Surety shall be responsible for the prompt payment of the penal sum to the City for such repairs and/or maintenance including any incidental costs associated therewith, including but not limited to the costs of consultants and/or engineering investigations, testing, analysis and any other costs incurred to determine the cause of defect and/or the necessary repair and maintenance and attorney fees incurred in collection of this Maintenance Bond.

PROVIDED, FURTHER, that if said Contractor fails to duly and faithfully guarantee and maintain said work, the Surety will pay for the same in any amount not exceeding the amount of this obligation, together with interest as provided by law.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[SEAL]

\_\_\_\_\_  
[Contractor/Principal]

\_\_\_\_\_  
[Title]

[SEAL]

\_\_\_\_\_  
[Surety Company]

By:

\_\_\_\_\_  
[Attorney-in-fact]

By:

\_\_\_\_\_  
[Kansas Agent]

(Accompany this Bond with Attorney-in-Fact's authority from the surety company certified to include the date of the bond.)





## PERFORMANCE BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

**KNOW ALL MEN BY THESE PRESENTS** that we, the undersigned of \_\_\_\_\_, as Principal, hereinafter referred to as the "Contractor," and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Kansas, hereinafter referred to as the "Surety," are held and firmly bound unto the CITY OF GARDNER, KANSAS hereinafter referred to as "City," in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States of America, for the payment of which sum, well and truly to be made to the City of Gardner, Kansas, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents:

#### THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

**WHEREAS**, the above bonded Contractor, has on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, executed a written Agreement with the City for furnishing in a good, substantial and workmanlike manner all construction labor, materials, equipment, tools, transportation, superintendence, and other facilities and accessories, for and in connection with the satisfactory and timely performance of all Work and construction of certain improvements referred to as **2021 Hillsdale WTP Waste and Residuals Pond Cleanout**, more particularly designated, defined and described in the Agreement and the Contract Documents, and in accordance with the Specifications and Plans and other Contract Documents thereto; a copy of said Agreement is attached hereto and made a part hereof.

**NOW THEREFORE**, if said Contractor shall and will, in all particulars promptly and faithfully perform and abide by each and every covenant, condition, and part of said Agreement, and the Conditions, Specifications, Plans and other Contract Documents hereto attached or by reference made a part hereof, according to the true intent and meaning in each case, and said improvements shall be constructed and completed in strict accordance with the Contract Documents, conditions, specifications, plans and other documents, and if said Contractor shall replace all defective parts, material and workmanship for a period of two (2) years after acceptance by the City, then this obligation shall be and become null and void; otherwise it shall remain in full force and effect.

**PROVIDED**, if said Contractor fails in any particulars to duly and faithfully observe, perform and abide by each and every covenant, condition, and part of the said Agreement and the Conditions, Specifications, Plans and other Contract Documents, thereto attached, or, by reference made a part thereof, according to the true intent and meaning in each case, or if said Contractor shall fail to replace all defective parts, material and workmanship for a period of two (2) years after acceptance by the City then the surety will pay the costs to complete the project and/or the costs to repair any defective parts for the period of two (2) years after acceptance, and any other damages incurred by the owner in procuring completion and/or repair, such amount not exceeding the amount of this obligation, together with interest as provided by law.

**PROVIDED FURTHER**, that if the said Contractor fails to duly pay for any labor, materials, sustenance, provisions, provender, gasoline, lubricating oils, fuel oils, greases, coal, equipment and tools consumed or used in said work, groceries and foodstuffs, and all insurance premiums,

compensation; liability and otherwise, or any other supplies or materials used or consumed by such Contractor or his, their, or its subcontractors in performance of the Work contracted to be done, the Surety will pay the same in any amount not exceeding the amount of this obligation, together with interest as provided by law.

**PROVIDED, FURTHER**, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement, or Contract Documents or the Work to be performed hereunder, or the Specifications, plans or other documents accompanying the same, shall in any way affect its obligations on this Performance Bond and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the Agreement, or Contract Documents or to the Work, or to the Specifications, plans and other documents.

**PROVIDED FURTHER**, that it is expressly agreed that the bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the contract price more than fifty percent (50%), so as to bind the Contractor and the Surety to the full and faithful performance of the Agreement so amended. The term "amendment," wherever used in this bond, and whether referring to this bond or the Agreement, shall include any alteration, addition, extension, or modification of any character whatsoever.

**IN TESTIMONY WHEREOF**, the said Contractor has hereunto set his/her hand, and the said Surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

\_\_\_\_\_  
[Contractor/Principal]

\_\_\_\_\_  
[Title]

[SEAL]

\_\_\_\_\_  
[Surety Company]

By:

\_\_\_\_\_  
[Attorney-in-fact]

By:

\_\_\_\_\_  
[Kansas Agent]

**NOTE:**

1. Date of bond must not be prior to date of contract.
2. If Contractor is partnership, all partners should execute bond.
3. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Kansas.
4. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.



## STATUTORY PAYMENT BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

---

#### KNOW ALL MEN BY THESE PRESENTS:

THAT we, the undersigned, \_\_\_\_\_ of \_\_\_\_\_, hereinafter referred to as "Contractor", and \_\_\_\_\_ a corporation organized under the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Kansas, as "Surety", are held and firmly bound unto the State of Kansas, in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, or heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

#### THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded CONTRACTOR has, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, entered into an Agreement with the City of Gardner, Kansas, for furnishing all tools, equipment, materials and supplies, performing all labor and constructing **Project: 2021 Hillsdale WTP Waste and Residuals Pond Cleanout**, described in the attached Agreement, Contract Documents, Specifications, Plans, and other documents on file in the office of the City Clerk of Gardner, Kansas.

NOW, THEREFORE, if the CONTRACTOR and his SUBCONTRACTORS shall pay all indebtedness incurred for supplies, materials, or labor furnished, used or consumed in connection with, or in, or about the construction or making of, public improvements, including gasoline, lubricating oils, fuel oils, greases, coal, and similar items used or consumed directly in furtherance of such improvements described in the above-mentioned Agreement and Contract Documents, this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED, that the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement and the Contract Documents or to the work to be performed thereunder, or the Specifications or Plans accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Agreement, Contract Documents or to the Specifications or Plans.

PROVIDED FURTHER, that the surety agrees that any person to whom there is due any sum for supplies, materials, or labor, as herein before stated, or his assigns, may bring an action on this bond for the recovery of the indebtedness; PROVIDED, that no action shall be brought on the bond after six (6) months from the completion of said public improvements.

PROVIDED FURTHER, that it is expressly agreed that this bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the contract price more than fifty percent (50%), so

as to bind the Contractor and the Surety to the full and faithful performance of the Agreement as so amended. The term "amendment," wherever used in this bond and whether referring to this bond or the Agreement shall include any alteration, addition, extension or modification of any character whatsoever.

IN TESTIMONY WHEREOF, the CONTRACTOR has hereunto set his hand, and said surety has caused these presents to be executed in its name, and its corporate seal to be affixed by its attorney-in-fact duly authorized to do so at \_\_\_\_\_ on this, the day of \_\_\_\_\_, 20\_\_.

[SEAL]

\_\_\_\_\_  
[Contractor/Principal]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Surety Company]

[SEAL]

By:

\_\_\_\_\_  
[Attorney-in-fact]

By:

\_\_\_\_\_  
[Kansas Agent]

NOTE:

1. A Statutory Bond is required only in connection with a Contract exceeding one hundred thousand dollars (\$100,000) in accordance with K.S.A. 60-1111 as amended.
2. Contractor shall be responsible for seeing to it that this Statutory Bond is filed with the Clerk of the District Court for Johnson County, Kansas.
3. Date on bond must not be prior to date of contract.
4. If Contractor is partnership, all partners should execute bond.
5. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Kansas.
6. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.



## Authority to Sign



## **AUTHORITY TO SIGN**

Denali Water Solutions LLC Corporate Evidence of Authority to Sign, Solely for Routine bids and Customer Contracts associated with the handling of Biosolids. This authority does not extend to any other type of contract.

A meeting of the Board of Directors for Denali Water Solutions LLC was held on February 11, 2020. Present at the meeting were Andy McNeill, Rob Currey, B.J. Loessberg, Kevin Dunlap, Todd Sims, and Ransom Langford. During the meeting, the Board of Directors authorized the following to sign contracts and agreements on behalf of Denali Water Solutions LLC:

- Andy McNeill, Chief Executive Officer
- Jeffrey LeBlanc, President
- Rob Currey, Chief Financial Officer
- Scott Walker, Director of Assets & Procurement
- Jeff Thurber, General Manager
- Todd Sims, Chief Investment Officer
- Kevin Dunlap, Chief Operating Officer

A handwritten signature in blue ink, appearing to read "A McNeill", is written over a horizontal line.

**Signed by:** Andy McNeill, Chief Executive Officer





## Equipment List



## EQUIPMENT LIST

The following is a list of equipment available to use for this project. Note that the trucks being used for this project have a hauling capacity of 6,000 gallons.

Description	Category	Manufacturer	Model	Year
2000 New Holland Tractor		New Holland		2000
MACK CHU613	Truck	MACK		2011
TALBERT 30-TON TRI-AXLE LOW BOY TRAILER W/STINGER AXLE OPTION T3DW-30-SRG-T1	TRAILER	TALBERT		2008
Fruehauf Drop Deck Trailer	Trailer	FRUEHAUF		1993
APPALACHIAN DREDGE TRAILER for DR15	Trailer	APPALACHIAN		2009
Econoline 16 Ton Pintle Hitch Trailer	Trailer	ECONOLINE		2007
LAMAR FUEL TRAILER W/PUMP - 500 GALLONS - MODEL 5X8	Trailer	LAMAR		2017
BALZER 4200 LIQUID BUGGY	Buggy	BALZER		2005
HOULE 52' Long 6" Diameter Hog Pump AGI-POMPE AP-L-52T	Pump	HOULE		
HOULE 52' Long 6" Diameter Hog Pump AGI-POMPE AP-L-52T	Pump	HOULE		
PUMP - SUPER VAC ASSIST 4x3 - to run gama-jet & hose reels				
FORD F250 4x4 CREW CAB	Cars & Trucks	FORD	F-250	2018
FORD F150 CREW CAB 4x4 SS	Cars & Trucks	FORD	F-150	2018
RAM 1500 LARAMIE 4x4 CREW CAB	Cars & Trucks	RAM	1500	2019
FORD F250 4x4 CREW CAB	Cars & Trucks	FORD	F-250	2019
2019 Ford F-150 XLT 4x4 SuperCrew Cab		Ford	F-150	2019
2019 Ford F-150 XLT 4x4 SuperCrew Cab		Ford	F-150	2019
2019 Ford F-150 LARIAT 4x4 SuperCrew Cab		Ford	F-150	2019
2019 Ford F-150 XLT 4x4 SuperCrew Cab		Ford	F-150	2019
9'10" SPLAT BOAT				
MACK SPREADER TRUCK, 5-SPEED TRANSMISSION, 419,262 MILES REPORTED CV713	TRUCK	MACK		2004
MACK CHU613 TANDEM AXLE TRACTOR	TRUCK	MACK		2015
MACK GU713 TRACTOR	TRUCK	MACK		2018
MACK GU713 TRACTOR	TRUCK	MACK		2018
MACK CHU613	TRUCK	MACK		2018
Mack GU713 Tank Truck	Truck	MACK		2012
MACK CHU613	Truck	MACK		2003
2019 Mack PI64		Mack		2019
1995 Peterbilt 357 Spreader Truck		Peterbilt		1995
Mack Pressure Tank Truck - Bob Truck	Truck	MACK		2012
INTERNATIONAL WATER TRUCK	Truck	INTERNATIONAL		2006

Description	Category	Manufacturer	Model	Year
INTERNATIONAL WATER TRUCK - EZ Rider	Truck	INTERNATIONAL		1982
PETERBILT 567 TRANSPORT - Bob Truck	Truck	PETERBILT		2017
PETERBILT For Shop Yard Mule	Truck	PETERBILT		1999
0000 OTTAWA YARD MULE	Yard Mule	0000 OTTAWA		2000
PETERBILT 389 TRANSPORT	Truck	PETERBILT		2018
MACK GU813	Truck	MACK		2013
VOLVO VHD84FT200	Truck	VOLVO		2014
FARMSTAR HYDRAULIC 34d MEMBER REEL	Other	FARMSTAR		2009
EMS CONNEX BUILDING	Building	EMS		2000
CUMMINS GREEN HYDRAULIC		CUMMINS		1998
BALZER 4200 LIQUID BUGGY	Buggy	BALZER		2003
NORTHSTAR 6500 DIESEL	Other	NORTHSTAR		2014
BALZER MAGNUM 4200 LIQUID BUGGY	Buggy	BALZER		2007
KUBOTA L4600 Tractor	Farm Tractor	KUBOTA		
H & H FLOATING DREDGE - MDS120 w/TL9201	Pump	H		
ITHACA OFFICE TRAILER - 12'X50', DUAL 15,000 LB AXLE	Building	ITHACA		2016
MILLER BOBCAT WELDER	Other	MILLER		2004
2014 - 7010 MID AMERICA STEEL DECK TRUCK SCALE	Other	2014 - 7010 MID		
HOULE 53' Long 6" Diameter Hog Pump	Pump	HOULE		2013
HOULE 32' Length 6"Diameter Hog Pump	Pump	HOULE		2013
McELROY 125001	Other	MCELROY		1998
John Deere Tractor 8420 MFWD	Tractor	JOHN		2005
VMI Dredge MD-615	Dredge	VMI		2014
HOULE LAGOON PUMP 52	Pump	HOULE		2011
420 RANCHER ATV 4WDw.soil sampling machine OE1001	Yard Mule	420 RANCHER		-
WINTEXAG 2000 Soil Sampling Machine/mounted on AT2	Other	WINTEXAG		2017
FORD F450 PICK UP	Cars & Trucks	FORD	F-450	2012
FORD F450 SD CREW CAB 4X4	Cars & Trucks	FORD	F-450	2006
FORD F-250	Cars & Trucks	FORD	F-250	2017
FORD F-250 LARIAT 4x4 SD CREW CAB	Cars & Trucks	FORD	F-250	2019
FORD F-150 XLT 4X4 SUPERCREW	Cars & Trucks	FORD	F-150	2018
FORD F-150 XLT 4X4 SUPERCREW	Cars & Trucks	FORD	F-150	2018
FORD F150	Cars & Trucks	FORD	F-150	2006
FORD RANGER	Cars & Trucks	FORD	RANGER	2001
FORD RANGER	Cars & Trucks	FORD	RANGER	2005
John Deere Cab Tractor 6140 D w/Loader WL372	Tractor	JOHN		2014
LAYMOR STREETSWEEPER	Other	LAYMOR		-
DODGE RAM 3500	Cars & Trucks	DODGE	3500	2014
SIERRA DENALI 4WD Crew Cab PU	Cars & Trucks	SIERRA	SIERRA	2015

Description	Category	Manufacturer	Model	Year
BALZER MAGNUM 4200 LIQUID BUGGY	Buggy	BALZER		2005
BALZER MAGNUM 4200 LIQUID BUGGY	Buggy	BALZER		
Balzer 4800 Gallon Vac Tank	Buggy	BALZER		2017
Houle 42" Lagoon Pump	Pump	HOULE		2008
AGI 42" Lagoon Pump	Pump	AGI		2015
Houle 52" Lagoon Pump	Pump	HOULE		2012
NISSAN FORK LIFT	FORK LIFT	NISSAN		2001
NEW HOLLAND 8970 FARM TRACTOR	Farm Tractor	NEW		1995
NH 8970 FARM TRACTOR	Farm Tractor	NH		1993
H & H FLOATING DREDGE	Pump	H		2000
JOHN DEERE 444H WHEEL LOADER	Wheel Loader	JOHN		2003
HOLLAND AERWAY AERATOR	Other	HOLLAND		2007
VOLVO WHEEL LOADER	Wheel Loader	VOLVO		2004
BALZER VACUUM TANK 4200 SERIAL # 4701	Buggy	BALZER		1999
TEXWIN CARPORT	Building	TEXWIN		2015
SCALE HOUSE	Building	SCALE		2016
SMALL STORAGE BUILDING (Time Clock)	Building	SMALL		-
BUILDING-	Building	BUILDING		2011
42' SCOTTY BOX FOR WYLIE	Other	42'		-
2007 Submersible 6 In Pump	Pump	2007 SUBMERSIBLE		2007
% SOLID SMART SYSTEM	Other	% SOLID		-
John Deere 4955	Farm Tractor	JOHN		1990
JD 8330 FARM TRACTOR	Farm Tractor	JD		2007
HOULE 52' 8" HOG PUMP	Pump	HOULE		2010
HOULE 52' 8" HOG PUMP	Pump	HOULE		2011
HOULE 52' 6" HOG PUMP	Pump	HOULE		2013
NEW HOLLAND T8030	Farm Tractor	NEW		
New Holland T8020	Farm Tractor	NEW		2008
FARM TRACTOR	Farm Tractor	FARM		2011
NEW HOLLAND T8030	Farm Tractor	NEW HOLLAND		2012
New Holland T8030	Farm Tractor	NEW		2011
NEW HOLLAND T8020	Farm Tractor	NEW		2011
NEW HOLLAND T8030	Farm Tractor	NEW		2011
NEW HOLLAND T8300	Farm Tractor	NEW		2012
NEW HOLLAND T8300	Farm Tractor	NEW		2012
NEW HOLLAND T8.275	Farm Tractor	NEW		2013
NEW HOLLAND T8.275	Farm Tractor	NEW		2013
NEW HOLLAND T7.260	Farm Tractor	NEW		2013
HOULE 52' Long 8" Diameter Hog Pump	Pump	HOULE		2010
ODOR CONTROL SYSTEM - GP - 13HP	Other	ODOR		



Description	Category	Manufacturer	Model	Year
ODOR CONTROL SYSTEM - GP - High Pressure Atomizing System	Other	ODOR		
1000 Gallon Fuel Tank	Other	1000 GALLON		
11 Ft. Flat Bottom Boat	Other	11 FT		
STERLING QUAD CAB 4X4 TRUCK BULLET	PICKUP	STERLING		2008
BIGT UTILITY TRAILER	Utility Trailer	BIGT		2004
Big Tex Tandem Axle Pipe Utility Trailer 70PI-70	Utility Trailer	BIG		2014
DAKOTA UTILITY TRAILER	Utility Trailer	DAKOTA		2012
TRAIL KING pintle hitch trailer	Utility Trailer	TRAIL		2005
MEB UTILITY TRAILER (TILT)	Utility Trailer	MEB		2011
LARK UNITED TRAILER	Trailer	LARK		2015
TRAILMASTER Gooseneck	Utility Trailer	TRAILMASTER		2009
J & L TRAILER	Tanker Trailer	J & L		1971
HOME MADE TRAILER GOOSENECK	Utility Trailer	HOME		2019
2020 Big Tex Utility Trailer		Big Tex		
DRAGON TRAILER		DRAGON		
DRAGON 150BBL ALUMINUM VACUUM TANKERS	Tanker Trailer	DRAGON		2006
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1972
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1972
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1973
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1973
Trailmaster Tank Trailer	Trailer	TRAILMASTER		1973
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1978
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1997
Fruehauf Tank Trailer	Trailer	FRUEHAUF		1986
FRUEHAUF TRAILER	Tanker Trailer	FRUEHAUF		1990
HEIL TRAILER	Tanker Trailer	HEIL		1982
STEPHENS TRAILER 8400 Gallon	Tanker Trailer	STEPHENS		2005
STEPHENS TRAILER	Tanker Trailer	STEPHENS		2001
STEPHENS TRAILER	Tanker Trailer	STEPHENS		2001
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1986
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1982
TRAILMASTER TRAILER	Trailer	TRAILMASTER		1997
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1980
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1986
VIM	Tanker Trailer	VIM		1986
TRAILMASTER TRAILER	Trailer	TRAILMASTER		2003
TRAILMASTER TRAILER	Trailer	TRAILMASTER		2006
PETERBILT MODEL 389	Truck	PETERBILT		2020



## Statement of Qualifications





## STATEMENT OF QUALIFICATIONS

Denali Water has been in the business of providing residuals management services for the last 24 years and employs a number of experts who have been in the residuals management industry since the 1980s. The Company prides itself in putting the customers' needs, the environment, and safety first. This philosophy has been a primary driver for Denali Water's success as an environmental service company, and it is the reason Denali Water will continue to be the premier choice for responsive and ethical residuals management services for public, private, and industrial customers across the US.

### History

Denali Water was originally founded as Terra Renewal in 1995. The original focus of the company was the handling and disposal of wastewater residuals from industrial plants via land application for beneficial use as a fertilizer. The focus of the business quickly expanded to include municipal biosolids, spent fryer oil and grease, and handling of spent gas and oil exploration and production fluids. At its peak, it was one of the largest waste companies in the United States with operations in greater than 20 states and was land applying greater than one billion gallons of wastewater residuals on over 225,000 acres of farm fields. Ultimately, the company divested of its oil & gas business and its rendering business (i.e. spent fats and greases). As a result of these divestitures, the name of the company was changed to Denali Water Solutions.



In many states, Denali Water was an early pioneer in land application permitting process and has led the industry with safe, responsible management of organic residuals. The Company takes pride in its work and its relationships with customers and with officials in regulatory agencies across the US. The goal of Denali Water is to continue to grow and evolve with this ever-changing industry.

In 2016, Denali combined forces with WeCare Organics LLC and formed a subsidiary known as WeCare Denali LLC which services with mid-Atlantic region on the US, including New York, New Jersey, Maryland, Pennsylvania, and more. The company is now second largest handler of municipal biosolids in the United States, the largest provider of industrial food processing residuals management and operates from coast to coast. Denali offers an array of services including land application, Class A processing, dredging, composting, permitting, mobile dewatering, outsourced dewatering, geo-textile tube dewatering, lagoon and digester cleanout, and transportation services. Recent acquisitions have expanded Denali Water's service offerings in biosolids, green waste, and food waste composting.



### The Denali Team

We believe that we are only as good as our team. Denali has had the same leadership in place since 2002 and has a seasoned team of industry veterans and has had limited turnover in its management team for many years. This is because we foster a culture that makes people proud to say they work at Denali because of how it treats its employees, customers, and the community.

The key personnel working for Denali have a combined 100+ years of experience in the biosolids and residuals transportation and management industry. Whether it's a treatment facility producing as little as 300 tons per year or 150,000 tons per year, our experienced, friendly, and knowledgeable staff has provided years of success and satisfaction for our clients.

---

#### **ANDY MCNEILL - CHIEF EXECUTIVE OFFICER**



With over 15 years of industry experience Andy has led as CEO since 2002. Andy graduated from Auburn University with a BS in accounting and holds an MBA from the University of Notre Dame. Andy frequently speaks on topics associated with the company, including land application and beneficial reuse, and serves on various boards.

---

#### **JEFFREY J. LEBLANC - PRESIDENT**



Jeff joined Denali Water Solutions LLC, as its President, when it acquired the key assets of WeCare Organics, LLC in 2016. Jeff is responsible for overseeing all aspects of sales, marketing and business development, as well as environmental and regulatory compliance. Jeff has played a key role in Denali's growth, as the industry leader in recycling of waste and residuals, and as a frequent guest speaker at industry conferences and seminars.

Jeff is focused on Denali's strategy as a full-service residual management company commissioned to bridge the gap between the farmer and the environmental community via the operations, management and distribution of residual based products, such as WeCare Compost®. In addition, Jeff has led the Company's vision to be the "landfill-alternative" and has steered the Company's advancement in managing source separated organics, such as green waste, food waste, food processing waste and biosolids.

---

#### **JIMMY MARDIS - CHIEF ENVIRONMENTAL OFFICER**



Jimmy is Denali's Chief Environmental Officer with over 25 years of experience in the Environmental Management food industry, with a focus on environmental. He also served for seven years as a pilot in the United States Air Force. Jimmy is a founding Board Member of the Illinois River Water Shed Partnership and Board Member for Shiloh Christian School. He lives and works in Rogers, AR with his wife Terri.

---

#### **ROB CURREY - CHIEF FINANCIAL OFFICER**



Rob Currey serves the company as its Chief Financial Officer. Rob's professional experience has been focused on the intersection of entrepreneurship, energy and resource use, and environmental stewardship. Rob's diverse background spans private equity investing, renewable-energy project development, corporate strategy at a large multinational company, and most recently, CFO roles at companies focused on delivering municipal wastewater systems and services. Rob received a graduate degree from Duke University with a Master of Environmental Management. Rob pursued his undergraduate studies at Princeton where he earned his Bachelor of Science degree in Engineering, and where he played varsity football.

---

#### KEVIN DUNLAP - CHIEF OPERATIONS OFFICER



Kevin is an experienced executive and leader in the water, wastewater, and environmental services industries with a demonstrated history of success. Kevin serves as Chief Operations Officer at Denali, and was previously CEO of Orège North America Inc. He has spent his entire 25-year career in various sales, operations, management, and executive leadership roles, including positions with American Water/EMC, US Filter, ITT Industries, Waterlink, and BCR Environmental. He has spent the past 15 years in management and executive level positions. Kevin has led municipal and industrial sales efforts in North America that have focused on both water and wastewater treatment equipment and services. He has also been responsible for profit and loss, and overseeing the day to day operations in several roles. He has focused the majority of his career on complex transactions involving capital sales of \$250,000 or more and long-term service agreements of 3 years or more. Kevin has a bachelor's degree in Environmental Studies from Baylor University.

---

#### GARY EMERY - VICE PRESIDENT, SALES & DEVELOPMENT



Gary is Vice President of Sales & Development for Denali, bringing a breadth of knowledge in the environmental and residuals management industry. He began his career in 1986 with an Arkansas-based environmental trucking company. Gary is a proven expert in the lagoon business as a key player for municipalities, solving liquid event problems. Gary has been with Denali since 2009 and was previously in management as an Operations Manager at Mid-America Environmental Solutions. Gary has managed operations, sales, dispatch, and environmental work throughout the South-Central region. His analysis of customer needs and determining operational resources are unmatched in the environmental sector.

---

#### JASON GOLDEN – GENERAL MANAGER, CENTRAL REGION



Jason joined Denali in 2006. He holds a degree from Arkansas Tech University and is a certified Residential and Commercial contractor in the state of Arkansas. Jason began with the company as the Asset Manager and became the Liquid Events Operations Manager in February 2009. Jason has responsibility for project development and growth in the municipal services sector. He oversees projects ranging from small lagoon cleanouts in farming communities to large multiyear sludge management project handling hundreds of thousands of tons per year for cities such as Dallas, Houston, Norman OK, as well as a large percentage of the Rio Grande Valley.

---

#### JASON R. RAMSEY - DIRECTOR OF SAFETY



Jason is the Director of Safety for Denali. He is responsible for safety programs and procedures, risk assessment, and compliance with USDOT, FMCSA, and OSHA regulations. Jason has 8 years of experience with Terra and Denali and has several years of experience in business development, safety, executive management, compliance, and was previously a State Trooper. He holds a bachelor's from the University of Arkansas. Jason also serves as a Board Member for the Arkansas State Police Foundation.





# JASON GOLDEN

**GENERAL MANAGER  
CENTRAL REGION**

## PERSONAL PROFILE

Jason joined Denali in 2006. He holds a degree from Arkansas Tech University and is a certified Residential and Commercial contractor in the state of Arkansas. Jason began with the company as the Asset Manager and became the Liquid Events Operations Manager in February 2009. Jason has responsibility for project development and growth in the municipal services sector. He oversees projects ranging from small lagoon cleanouts in farming communities to large multiyear sludge management project handling hundreds of thousands of tons per year for cities such as Dallas, Houston, Norman OK, as well as a large percentage of the Rio Grande Valley.

## WORK EXPERIENCE

### **General Manager, Central Region, Denali Water Solutions LLC 2006 – Current**

Manages all aspects of operations for the Central Region; including but not limited to project scheduling, management of personnel, recruitment and qualification of subcontractors, project progress reviews, payment submittals, safety program compliance, and employee corrective actions. Also supervises Project Superintendents, coordinates with various departments, and performs routine visits to ensure effective communication with the Customer.

## PROJECT EXPERIENCE

### **City of Houston Northeast & Southeast Water Purification Plant - Houston, Texas 2019 - Present**

Project: Dewatering and Land Application of Class B Sludge | Value: \$4,099,041 | Client Contact: Andrew Molly, P.E.

### **Johnson County, Kansas 2019 - Present**

Project: Biosolids Land Application | Value: \$500,000 | Client Contact: Dale Bauer

### **City Corporation - Russellville, Arkansas 2015 – Present**

Project: Installation of Bioset Class A System, Production, Transportation, and Beneficial Reuse of Class A Residuals  
Value: \$1,082,475 | Client Contact: Lance Bartlett

### **North Texas Municipal Water District - Wylie, Texas 2013 – Present**

Project: Dredge, Haul, & Reuse via Land Application | Value: \$6,100,000 | Client Contact: Travis Markham

## LICENSES

Licensed Arkansas General Contractor

## EDUCATION

### **Arkansas Tech University**

Bachelor of Science

## CONTACT INFORMATION

Cell: (479) 477-1512

Email: [jason.golden@denaliwater.com](mailto:jason.golden@denaliwater.com)

Website: [www.denaliwater.com](http://www.denaliwater.com)

Address: 3308 Bernice Avenue, Russellville, AR 72802

# DENALI WATER SOLUTIONS

# **City of Gardner Utilities Department**



## **2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

**January, 2021**

### **Contact Information:**

Lisa Elmore  
Water Plant Supervisor  
(913) 856-7245

Ric Gere  
Utilities Staff Engineer  
(913) 568-8123



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/19/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Arthur J. Gallagher Risk Management Services, Inc. 1490 Market Street Suite 3 Lake Charles LA 70601		<b>CONTACT</b> NAME: Myra Clayton, CIC CISR PHONE (A/C, No, Ext): 337-289-5048 E-MAIL ADDRESS: Myra_Clayton@ajg.com FAX (A/C, No): 866-421-2655	
<b>INSURED</b> Dispatch Parent, LLC; Denali Water Solutions, LLC 3308 Bernice Ave Russellville AR 72802		License#: BR-724491 DENAWAT-03	
		<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
		INSURER A : Aspen Specialty Insurance Company	10717
		INSURER B : National Union Fire Insurance Company of Pittsburg	19445
		INSURER C : New Hampshire Insurance Company	23841
		INSURER D : Westchester Surplus Lines Insurance Co	10172
		INSURER E : RSUI Indemnity Company	22314
		INSURER F : AXIS Surplus Insurance Company	26620

## COVERAGES

**CERTIFICATE NUMBER:** 127935630

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	ER00HEY20	7/10/2020	6/30/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> MCS-90	Y	Y	5717880	7/10/2020	6/30/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A D U M	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	EX00HF020 G71818056001 NHA090763 P-001-000377041-01	7/10/2020 7/10/2020 7/10/2020	6/30/2021 6/30/2021 6/30/2021	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
C B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	Y	014195821 014195820	7/10/2020 7/10/2020	6/30/2021 6/30/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Pollution Liability and Professional Liability	Y	Y	ER00HEY20	7/10/2020	6/30/2021	Pollution Limit \$1,000,000 Professional Limit \$1,000,000

## DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is included as Additional Insured on the General Liability policy pursuant to and subject to the policy's terms, definitions, conditions and exclusions. Certificate Holder is included as Additional Insured on the Automobile policy as per endorsement number 87950. Waiver of Subrogation applies to Certificate Holder as respects the General Liability, Automobile, Workers Compensation and Excess Liability policies pursuant to and subject to the policy's terms, definitions, conditions and exclusions. General Liability and Automobile policies are primary and noncontributory pursuant to the policy's term, definitions, conditions and exclusions.

Workers Compensation Policy #: 014195820 covers State of California only.

Workers Compensation Policy #: 014195821 covers all other States.

See Attached...

## CERTIFICATE HOLDER

## CANCELLATION

CITY OF GARDNER, KANSAS  
 1150 E. SANTA FE STREET  
 GARDNER KS 66030

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY Arthur J. Gallagher Risk Management Services, Inc.		NAMED INSURED Dispatch Parent, LLC; Denali Water Solutions, LLC 3308 Bernice Ave Russellville AR 72802
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Excess Liability policies follow form of underlying policies as listed below:

Policy #: EX00HF020 - \$10,000,000 limit and is excess over General Liability, Pollution Liability and Professional Liability only.

Policy #: P-001-000377041-01 - \$3,000,000 limit (1st Layer) and is excess over Automobile and Workers Comp. Employer's Liability only.

Policy #: NHA090763 - \$2,000,000 limit (2nd Layer) and is excess over Automobile and Workers Comp. Employer's Liability only.

Policy #: G71818056001 - \$5,000,000 limit (3rd Layer) and is excess over General Liability, Automobile and Workers Comp. Employer's Liability only.

Complete list of Named Insureds: Dispatch Acquisition Holdings, LLC, Denali Water Solutions, LLC, Dispatch Parent, LLC, Terra Renewal Services, Inc., WeCare Denali, LLC, Denali ROI, LLC, Ramco Environmental, LLC, NuTerra SE FL Organics, LLC, NuTerra Finance, Inc., Veris Environmental, LLC, AWS Dredge, LLC

RE: 2021 HILLSDALE WTP WASTE AND RESIDUALS POND CLEANOUT  
PROJECT NO: WW1901



## STATUTORY PAYMENT BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

Bond No. SUR0065154

#### KNOW ALL MEN BY THESE PRESENTS:

3308 Bernice Avenue  
THAT we, the undersigned, Denali Water Solutions LLC of Russellville, AR 72802,  
hereinafter referred to as "Contractor", and Argonaut Insurance Company a corporation  
organized under the laws of the State of IL, and authorized to transact business  
in the State of Kansas, as "Surety", are held and firmly bound unto the State of Kansas, in the  
penal sum of Fifty Four Thousand Seven Hundred Dollars (\$ 54,779.00 ), lawful money of the United  
Seventy Nine and 00/100  
States of America, for the payment of which sum well and truly to be made, we bind ourselves, or  
heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

#### THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded CONTRACTOR has, on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, entered into an Agreement with the City of Gardner, Kansas, for furnishing  
all tools, equipment, materials and supplies, performing all labor and constructing **Project: 2021  
Hillsdale WTP Waste and Residuals Pond Cleanout**, described in the attached Agreement,  
Contract Documents, Specifications, Plans, and other documents on file in the office of the City  
Clerk of Gardner, Kansas.

NOW, THEREFORE, if the CONTRACTOR and his SUBCONTRACTORS shall pay all  
indebtedness incurred for supplies, materials, or labor furnished, used or consumed in connection  
with, or in, or about the construction or making of, public improvements, including gasoline,  
lubricating oils, fuel oils, greases, coal, and similar items used or consumed directly in furtherance  
of such improvements described in the above-mentioned Agreement and Contract Documents,  
this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED, that the Surety, for value received, hereby stipulates and agrees that no  
change, extension of time, alteration, or addition to the terms of the Agreement and the Contract  
Documents or to the work to be performed thereunder, or the Specifications or Plans  
accompanying the same, shall in any way affect its obligation on this bond, and it does hereby  
waive notice of any such change, extension of time, alteration, or addition to the terms of the  
Agreement, Contract Documents or to the Specifications or Plans.

PROVIDED FURTHER, that the surety agrees that any person to whom there is due any  
sum for supplies, materials, or labor, as herein before stated, or his assigns, may bring an action  
on this bond for the recovery of the indebtedness; PROVIDED, that no action shall be brought on  
the bond after six (6) months from the completion of said public improvements.

PROVIDED FURTHER, that it is expressly agreed that this bond shall be deemed  
amended automatically and immediately, without formal and separate amendments hereto, upon  
amendment to the Agreement not increasing the contract price more than fifty percent (50%), so



as to bind the Contractor and the Surety to the full and faithful performance of the Agreement as so amended. The term "amendment," wherever used in this bond and whether referring to this bond or the Agreement shall include any alteration, addition, extension or modification of any character whatsoever.

IN TESTIMONY WHEREOF, the CONTRACTOR has hereunto set his hand, and said surety has caused these presents to be executed in its name, and its corporate seal to be affixed by its attorney-in-fact duly authorized to do so at Rolling Meadows, IL on this, the day of February 17, 2021

[SEAL]

Denali Water Solutions LLC

[Contractor/Principal]

  
Jeffrey J. LeBlanc [Title] President

Argonaut Insurance Company

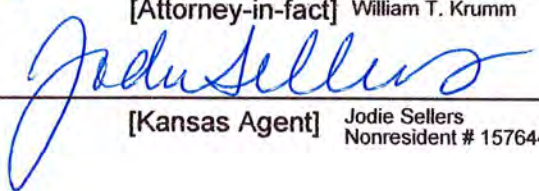
[Surety Company]

[SEAL]

By:

  
[Attorney-in-fact] William T. Krumm

By:

  
[Kansas Agent] Jodie Sellers  
Nonresident # 15764469

NOTE:

1. A Statutory Bond is required only in connection with a Contract exceeding one hundred thousand dollars (\$100,000) in accordance with K.S.A. 60-1111 as amended.
2. Contractor shall be responsible for seeing to it that this Statutory Bond is filed with the Clerk of the District Court for Johnson County, Kansas.
3. Date on bond must not be prior to date of contract.
4. If Contractor is partnership, all partners should execute bond.
5. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Kansas.
6. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.

SURETY ACKNOWLEDGMENT (ATTY-IN-FACT)

State of Illinois  
County of Cook

I, Renee N Schremser, Notary Public, do hereby certify that William T Krumm Attorney-in-Fact, of the Argonaut Insurance Company who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered said instrument, for and on behalf of the Argonaut Insurance Company for the uses and purposes therein set forth.

Given under my hand and notarial seal at my office in the City of Rolling Meadows in said County, this 17<sup>th</sup> day of February, 2021

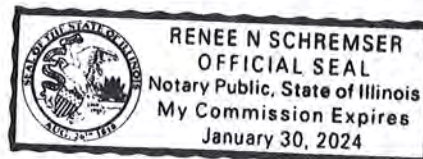
Renee N Schremser

Notary Public

Renee N Schremser

My Commission expires:

01/30/2024





**Argonaut Insurance Company**  
**Deliveries Only: 225 W. Washington, 24th Floor**  
**Chicago, IL 60606**

**United States Postal Service: P.O. Box 469011, San Antonio, TX 78246**

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

William T. Krumm, Sharon A. Foulk, Jodie Sellers, Patrick M. Gallagher, Karen E. Socha, Kathleen Weaver, Jon A. Schroeder

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$85,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.



Argonaut Insurance Company

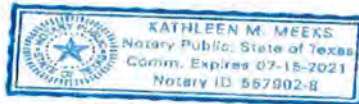
by:

Joshua C. Betz, Senior Vice President

STATE OF TEXAS  
COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 17<sup>th</sup> day of February, 2021



James Bluzard, Vice President-Surety





## AGREEMENT BETWEEN CITY AND CONTRACTOR

This agreement ["Agreement"], is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between the City of Gardner, Kansas, [hereinafter "City"], and **Denali Water Solution, LLC.**, [hereinafter referred to as "Contractor"] for the construction of the following described work known as City of Gardner Project: **2021 Hillsdale WTP Waste and Residuals Pond Cleanout.**

### RECITALS

WHEREAS, the City desires to construct and complete **2021 Hillsdale WTP Waste and Residuals Pond Cleanout.**

WHEREAS, the City has caused to be prepared, in accordance with the law, Notice to Bidders, Instructions to Bidders, Bid, this Agreement, General and Special Conditions, Plans, Specifications and other Contract Documents (the "Contract Documents"), as defined in the General Conditions, for the work herein described, and has approved and adopted these said Contract Documents and has caused to be published, in the manner and for the time required by law, an advertisement inviting sealed Bids for furnishing construction materials, labor, tools, equipment and transportation necessary for, and in connection with, the construction of public improvements in accordance with the terms of this Agreement; and

WHEREAS, the Contractor, in response to the advertisement, has submitted to the City, in the manner and at the time specified, a sealed Bid in accordance with the terms of this Agreement; and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bids submitted, and as a result of this canvass has, in accordance with the law, determined and declared the Contractor to be the lowest and best responsible bidder for the construction of the public improvements known as **2021 Hillsdale WTP Waste and Residuals Pond Cleanout** and has duly awarded to the Contractor a contract therefore upon the terms and conditions set forth in this Agreement for the sum or sums named in the Bid attached to and made a part of this Agreement.

WHEREAS, in the judgment of the City of Gardner, it is necessary and desirable to employ the services of Contractor for **2021 Hillsdale WTP Waste and Residuals Pond Cleanout.**

NOW, THEREFORE, in consideration of the compensation to be paid the Contractor, foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

## AGREEMENT

- 1.0 Work to be Performed. The Contractor will furnish at his own cost and expense all labor, tools, equipment, materials and transportation required to construct and complete the work designated, described and required by the Bid Documents and Contract Documents for City of Gardner Project, **2021 Hillsdale WTP Waste and Residuals Pond Cleanout**. All terms used herein shall have the meanings ascribed to them in the General Conditions unless otherwise specified.
- 1.1 Contractor's Work. The Work to be performed by Contractor under this Agreement is as described in the Bid Documents, attached and incorporated by reference.
- 1.2 Performance Standard. Contractor represents to City that Contractor is professionally qualified to do this Project and if required, is licensed to practice the Work being offered by all public entities having jurisdiction over Contractor and the Project. Contractor specifically acknowledges and confirms that: 1.) Contractor has visited the site, made all inspections Contractor deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by Contractor as specified herein and in the other Contract Documents and knowingly accepts same; 2.) Contractor has furnished copies of all Contract Documents to Contractor's insurance carrier(s) and its surety(ies); and 3.) Contractor's insurance carrier(s) and surety(ies) agree to be bound as specified in this Agreement, in the Contract Documents, as set forth in the insurance policy(ies) and bonds pertaining to liability and surety coverage.
- 1.3 Assigned Personnel.
- a. Contractor shall only assign competent personnel to perform work hereunder. In the event that at any time City, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform work hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from City.
  - b. With respect to this Agreement, the Contractor shall employ the following key personnel: \_\_\_\_\_.
  - c. In the event that any of Contractor's personnel assigned to perform Work under this Agreement become unavailable due to resignation, sickness or other factors outside of Contractor's control, Contractor's shall be responsible for timely provision of adequately qualified replacements.
  - d. The Contractor shall designate \_\_\_\_\_ as Principal on the Project. As principal on this project, this person shall be the primary contact with the Project Representative and shall have authority to bind Contractor. So long as the individual named above remains actively employed or retained by Contractor, he/she shall perform the function of principal on the Project, unless otherwise agreed to in writing signed by both parties. The Contractor will supply a direct name, phone number and email and will notify the City if this contact information changes during the contract period.

- f. City shall designate **Ric Gere, Utilities Staff Engineer** as the Project Representative to represent the City in coordinating this project with Contractor, with authority to transmit instructions and define policies and decisions of City. The written consent of the Department Director, and if applicable, City Administrator and/or Governing Body, shall be required to approve any increase in Project cost.

2.0 Commencement of Contract Time; Notice to Proceed.

- 2.1 The Contract Time will commence on the date stated in the Notice to Proceed. No Work shall be done at the site prior to issuance of a Notice to Proceed.
- 2.2 Before a Notice to Proceed will be issued, Contractor shall deliver to City certificates of insurance and such bonds as are required pursuant to the terms of this Agreement and the Contract Documents.
- 2.3 Before Contractor commences Work, a Pre-Construction Conference shall be held to review the progress schedules, to establish procedures for handling Shop Drawings and other submittals, and to establish a working understanding among the parties as to the Work to be performed pursuant to the terms of this Agreement and the Contract Documents.

3.0 Time of Performance.

- 3.1 Unless otherwise provide in this Agreement, Contractor shall commence Work upon the date stated in the Notice to Proceed, and will complete all Work covered by this Agreement and the Contract Documents within the time specified on the Notice to Proceed. Time is of the essence.
- 3.2 Progress Schedule  
Within ten (10) days after the Effective Date of this Agreement and prior to commencing the Work, Contractor shall submit to City an estimated progress schedule indicating the starting and completion dates of the various phases of the Work, including the projected cost of each phase. The cost projection may serve as the basis for Progress Payments during the Work.
- 3.3 Computation of Time. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation. A calendar day of 24 hours measured from midnight to the next midnight shall constitute a day.
- 3.4 Changes in Contract Time. The Contract Time may only be changed by a Change Order. Any claim for an extension or shortening of the contract time shall be based on written notice delivered by the party requesting the change to the other party promptly and stating the general nature of the claim. A written claim with supporting data shall be delivered within thirty (30) days after such occurrence (unless the Engineer allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said

event. All claims for adjustment in the Contract Time shall be determined by the Engineer. Consideration may be given to requests for extensions of time due to inclement weather. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph. In executing this Agreement, Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time therein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such Work, whether growing out of delays in securing materials, workers, weather conditions, or otherwise.

3.5 Damages for City Delay. If Contractor shall be delayed at any time in the progress of the Work by any act or omission of City or by any separate contractor employed by City, and over which Contractor has no control, then the Contract Time shall be extended by written Change Order for such reasonable time as City may decide, and no adjustment shall be made in the Contract Price.

3.6 Work Stoppage. Contractor warrants to City that there will be no Work stoppages or interruptions arising out of labor disputes, including, but not limited to, those due to the presence of both union and nonunion workforces at the Project site. Contractor further agrees that in the event of any strike, picket, sympathy strike, work stoppage or other form of labor dispute or picket in connection with the work of Contractor, other contractors, subcontractors, City, or any other person, Contractor will, contingent upon City providing a picket free entrance, continue to perform the Work required herein without interruption or delay.

3.7 Liquidated Damages.

a. Due to the critical nature of this project, liquidated damages resulting from failure to meet the completion date, shall be charged against the Contractor at a rate of per the following schedule:

CONTRACT AMOUNT			LIQUIDATED DAMAGES
\$0	to	\$25,000	\$75
\$25,001	to	\$50,000	\$125
\$50,001	to	\$100,000	\$200
\$100,001	to	\$500,000	\$400
\$500,001	to	\$1,000,000	\$600
\$1,000,001	to	\$2,000,000	\$925
\$2,000,001	to	\$5,000,000	\$1,375
\$5,000,001	to	\$10,000,000	\$2,000
\$10,000,001	and	up	\$3,000

The amount shown above shall be the sum due for each 24-hour calendar day, including weekends and holidays, on the full bid price of the Contract for each day completion is not made in accordance with the project schedule. The assessed amount shall be deducted from the final invoice(s).

b. Damages are only a reasonable estimate of City's damages due to loss of public use during any delay period.

- c. The City shall have the right to deduct the liquidated damages due to the public's loss of use of the project, and the City's actual costs to continue administration of the construction and the contract, from any monies due or any monies that may become due to the Contractor.

#### 4.0 Payment.

- 4.1 City agrees to pay Contractor for the actual work performed in accordance with this Agreement and the Contract Documents on the Project at the rates set forth in the Bid Form, which is attached hereto and incorporated by reference into this Agreement, the total of which shall not exceed a maximum total fee of \$54,779.00.
- 4.2 Contractor shall bill City monthly for all work performed. The bill submitted by Contractor shall itemize the work for which payment is requested. City agrees to pay Contractor within thirty (30) days of approval. Contractor agrees to submit herewith such financial information as shall be required by City to enable the City to properly report such payments as required by state or federal law. City will pay or cause to be paid an amount equal to the estimated value of the Work performed less a retained amount in accordance with the following schedule:
  - 1) Ten (10) percent until construction is substantially complete;
  - 2) When the Work is substantially complete, the retained amount may be reduced to a lesser amount at the discretion of the Engineer.
- 4.3 All invoices should be sent to **Ric Gere, Utilities Staff Engineer.**
- 4.4 Right to Withhold Payment:

City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to Contractor, to protect City from loss because of:

  - 1) Defective Work not remedied by Contractor nor, in the opinion of City, likely to be remedied by Contractor;
  - 2) Claims of third parties against City or City's property;
  - 3) Failure by Contractor to pay Subcontractors or others in a prompt and proper fashion;
  - 4) Evidence that the balance of the Work cannot be completed in accordance with this Agreement for the unpaid balance of the Contract Price;
  - 5) Evidence that the Work will not be completed in the Contract Time required for substantial or final completion;
  - 6) Persistent failure to carry out the Work in accordance with this Agreement;
  - 7) Damage to City or a third party to whom City is, or may be, liable; or
  - 8) Conditions unfavorable for the prosecution of Work, or because of conditions which, in the opinion of the Engineer, warrant such action.

#### 5.0 Substantial Completion.

- 5.1 When Contractor considers the entire Work ready for its intended use and all final restoration and testing is complete, Contractor shall notify City in writing that the entire Work is substantially complete and request that the Engineer issue a statement of Substantial Completion. Within a reasonable time thereafter, City and Contractor shall observe the Work to determine the status of completion. If City does not consider the Work substantially complete, City will notify Contractor in writing, giving its reasons therefore. If City considers the Work substantially

complete, City will prepare a tentative statement of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the statement a tentative list of items to be completed or corrected before Final Payment. This list shall be called a Punch List. The statement shall state the responsibilities of City and Contractor for maintenance, utilities, damage to the Work and insurance if any of these items shall be treated differently upon Substantial Completion and shall further state the time within which Contractor shall complete the items on the Punch List attached thereto.

- 5.2 City shall have the right to exclude Contractor from the Work after the date of Substantial Completion, but City shall allow Contractor reasonable access to complete or correct items on the Punch List.

6.0 Partial Utilization of Work by City.

Use by City of any finished part of the Work, which has specifically been identified in the Contract Documents, or which City and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by City without significant interference with Contractor's performance of the remainder of the Work shall be permitted. Such use and operation shall not constitute an acceptance of the Work, and Contractor shall be liable for defects due to faulty construction until the entire Work under this Agreement is finally accepted and for a period of two (2) years or longer thereafter as stipulated in these Contract Documents or by other law or regulation.

7.0 Completion and Final Payment.

- 7.1 Upon written notice from Contractor that Work or an agreed portion thereof is complete, Engineer will make a final inspection with Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to remedy such deficiencies.

- 7.2 If a repeat final inspection(s) is required, Contractor shall bear the cost of such repeat inspection, if any, including engineering and other professional fees. After Contractor has completed all such corrections and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked-up record documents and other documents - all as required by the Contract Documents, and after Engineer has indicated that the Work is complete, Contractor may make application for Final Payment request following the procedure for progress payment requests.

- 7.3 The Final Payment requests shall be accompanied by all documentation called for in this Agreement and the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to City) of all liens arising out of or filed in connection with the Work. In lieu thereof and as approved by City, Contractor may furnish receipts or releases in full; an affidavit of Contractor that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which City or its property might in any way be responsible, have been paid or otherwise satisfied; and consent of the



surety, if any, to Final Payment. If any Subcontractor or supplier fails to furnish a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to City to indemnify City against any lien.

- 7.4 If, on the basis of Engineer's observation of the Work during construction and final inspection, he determines that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, Final Payment certificates together with acceptance certificates will be submitted for payment.

8.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

9.0 Term of Agreement.

In the event that the Work rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the governing body of the City in the establishment of its annual budget.

10.0 Warranty and Defective or Unacceptable Work.

Contractor warranties and guarantees to City that all Work will be in accordance with the Contract Documents and will not be Defective or otherwise unacceptable. All Work which does not conform to the requirements of the Contract Documents shall be considered unacceptable. Defective Work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist within the two (2) year warranty period or such longer time as may be permitted by law, shall be removed immediately and replaced in an acceptable manner. This provision shall have full effect regardless of the fact that the Defective Work may have been done or the defective materials used with the full knowledge of City. No inspection by City of the Work nor Final Acceptance of the project by City shall relieve Contractor of its responsibility to perform pursuant to the Contract Documents and provide acceptable Work. If Contractor fails to remove Defective Work within seven (7) days after written notice, the rejected material or Work may be removed and corrected by City pursuant to the provisions of the Contract Documents permitting City to correct the Defective Work.

11.0 Suspension of Work.

City may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to Contractor which shall fix the date on which Work shall be resumed. Contractor shall resume the Work on the date so fixed. Contractor will not be allowed an increase in the Contract Price or an extension of the Contract Time, if such suspension is made as a result of an act or omission of

Contractor including but not limited to the occurrence of any one or more of the following events:

1. If Contractor fails to supply a qualified superintendent, sufficient skilled workmen, Subcontractors, or suitable materials or equipment;
2. If Contractor repeatedly fails to make prompt payments to Subcontractors or suppliers or for labor, materials, or equipment;
3. If Contractor disregards Laws and Regulations of any public body having jurisdiction; or
4. If Contractor otherwise violates in any substantial way any provisions of the Contract Documents, City shall have authority to suspend the Work wholly or in part, for such period of time as it may deem necessary, due to conditions unfavorable for the prosecution of the Work, or to conditions which in his opinion warrant such action, or for such time as is necessary by reason of failure on the part of Contractor to carry out orders given, or to perform any or all provisions of the Contract.

If it becomes necessary to suspend Work for an indefinite period of time, Contractor shall store all materials in such manner that they will not obstruct or impede the traveling public unnecessarily or become damaged in any way; take every precaution to prevent damage or deterioration of the Work performed; provide suitable drainage of the roadway and erect temporary structures and protective barriers where necessary. Contractor shall not suspend Work without written authority from City.

## 12.0 Termination.

### 12.1 Right of City to Terminate Contract.

- a. Without in any manner limiting the right of City to terminate the Contract or declare Contractor in default thereof for any reason set forth in this Agreement or the Contract Documents, if:
  - 12.1.a.1 the Work to be done under this Agreement shall be abandoned by Contractor; or
  - 12.1.a.2 this Contract shall be assigned by Contractor otherwise than as herein provided; or
  - 12.1.a.3 Contractor should be adjudicated to be bankrupt; or
  - 12.1.a.4 a general assignment of its assets should be made for the benefit of its creditors; or
  - 12.1.a.5 a receiver should be appointed for Contractor or any of its property; or
  - 12.1.a.6 at any time City believes that the performance of the Work under this Contract is being unnecessarily delayed, that Contractor is violating any of the conditions or covenants of this Agreement or the specifications therefore, that it is executing the same in bad faith or otherwise not in accordance with the terms of said Contract; or

12.1.a.8 all bid items of the Project are not completed within the Contract Time named for their completion or within the time to which such completion date may be extended;

then, in addition to other rights City may choose to exercise, City may, at its option, serve written notice upon Contractor and its surety of City's intention to terminate this Agreement, and, unless within five (5) days after the serving of such notice upon Contractor, a satisfactory arrangement is made for the continuance thereof, this Contract shall cease and terminate.

- b. Whether or not a satisfactory arrangement has been proposed by the Contractor shall be in the sole discretion of the City. In the event of such termination, or in the event that Contractor fails to perform and abide by any obligation set forth herein in any respect, City shall immediately serve notice thereof upon the surety and Contractor, and the surety shall have the right to take over and complete the Work; provided, however, that if the surety does not commence performance thereof within fourteen (14) days from the date of said notice of termination, City may take over the Work and prosecute same to completion, by contract or otherwise, for the amount and at the expense of Contractor, and Contractor and its surety shall be liable to City for any and all excess cost sustained by City by reason of such prosecution and completion; and in such event City may take possession of, and utilize in completing the Work, all such materials, equipment, tools and plant as may be on the site of the Work and necessary therefore.
- c. When Contractor's services have been so terminated, such termination shall not affect any rights or remedies of City against Contractor then existing or which may later accrue. Similarly, any retention or payment of monies due Contractor shall not release Contractor from liability.
- d. City reserves the right, in its sole discretion and for its convenience and without cause or default on the part of Contractor, to terminate the Contract by providing written notice of such termination to Contractor specifying when such termination becomes effective. Upon receipt of such notice from City, Contractor shall: (1) immediately cease all Work; or (2) meet with City and, subject to City's approval, determine what Work shall be required of Contractor in order to bring the Project to a reasonable termination in accordance with the request of City. If City shall terminate for its convenience as herein provided, City shall: (1) compensate Contractor for all purchased materials and actual cost of Work completed to date of termination. Contractor agrees that it shall require all its Subcontractor agreements to contain a termination for convenience provision thereby releasing Contractor from its obligations to its subcontractors should City terminate this Agreement for convenience. The provision shall also contain a waiver of liability against City in the event of such termination.

- 12.3 Authority to Terminate. The City Council has the authority to terminate this Agreement on behalf of the City. In addition, the City Administrator or Public Works Department Director, in consultation with the City Attorney, shall have the authority to terminate this Agreement on behalf of the City.
- 12.4 Right of Contractor to Terminate Contract. If, through no act or fault of Contractor, the Work is suspended for a period of more than ninety (90) days by City or under an order of court or other public authority, or City fails to act on any payment request within sixty (60) days after it is submitted, then Contractor may, upon seven (7) days written notice to City, terminate this Agreement and recover from City payment for all work executed. In addition and in lieu of terminating this Agreement, if City has failed to make any payment as aforesaid, Contractor may upon seven (7) days notice to City stop the Work until payment is made for all amounts then due. The provisions of this paragraph shall not relieve Contractor of his obligations to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with City.
- 13.0 Indemnification.  
To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify and hold harmless City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent or intentional acts, errors, or omissions of the Contractor or its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim.
- 14.0 Bonds.
- 14.1 Contractor shall, after receiving Notice of Award and prior to commencing the Work, furnish to City a Statutory Payment Bond, Performance Bond and Maintenance Bond on forms approved by City and secured by a surety company acceptable to City. With each bond there shall be filed with City one copy of a "Power of Attorney" certified to include the date of the bonds.
- 14.2 Contractor shall notify and obtain the consent and approval of Contractor's surety for all Change Orders and written amendments, if such notice is required by Contractor's surety or by law. Contractor's execution of a Change Order or written amendments to this Agreement shall constitute Contractor's warranty to City that the surety has been notified and that the surety consents to such Change Order or written amendment; accordingly surety shall be conclusively deemed to have been notified of such Change Order or written amendment and to have expressly consented thereto.
- 14.3 If Contractor's surety or any Bond furnished by Contractor is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Kansas, or it ceases to meet the requirements herein, Contractor shall within five (5) days thereafter substitute an acceptable surety and appropriate Bond.

15.0 Insurance.

15.1 The Contractor shall procure and maintain, at its sole expense, throughout the duration of this Agreement, insurance of such types (on an occurrence basis unless otherwise agreed to) and in at least such amounts as required herein (and not less than as required in any bid documents or other contract documents), from an insurance company licensed to do business in the State of Kansas, the following insurance coverages as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified:

- ☐ Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
- ☐ Commercial General Liability for bodily injury and property damage liability claims arising from the injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees or Subcontractors with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The property damage liability coverage shall contain no exclusion relative to blasting, explosion, and collapse of building or damage to underground property and/or facilities.
- ☐ Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
- ☐ Additional Insurance - The Contractor shall be required to purchase an Owner's Protective Liability Insurance Policy, issued on an occurrence basis and covering bodily injury (and death) and property damage, naming the City as named insured. The liability limits shall be as stated in the Instructions to Bidders or in the Special Conditions. The original policy shall be placed on file with the City and maintained during the life of the Contract. Such policy shall contain no exclusion relative to any function performed by the City or its employees and agents in connection with the Work.
- ☐ Special Hazards - Additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Special Conditions

15.3 Subcontractor's Insurance.

If a part of the Contract is to be sublet, Contractor shall either:

- 1) Cover all subcontractors in Contractor's general liability insurance policy;
- 2) Require each subcontractor not so covered to secure insurance in the minimum amounts required of Contractor which will protect subcontractor and the City against all applicable hazards or risks of loss as and in the minimum amounts designated for the Contractor.

15.4 The City shall be a named insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

15.5 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
- 2) Carries a Best's policyholder rating of A or better;

AND

- 3) Carries at least a Class X financial rating.

OR

Is a company mutually agreed upon by the City and Contractor.

15.6 All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.

15.7 All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.

16.0 Conflict of Interest.

Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its Work hereunder, including under 31 U.S.C.S. Section 1352. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed.

17.0 Nondiscrimination.

Contractor must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project



and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

18.0 Facilities and Equipment.

Contractor shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to complete the Project as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement.

19.0 Accessibility.

Contractor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Contractor shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

20.0 Records, Ownership and Inspection.

20.1 Ownership of Documents.

All documents prepared by Contractor in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not.

20.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Contractor acknowledges that this Agreement along with any reports and/or records provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

20.3 Maintenance of Records.

Except as otherwise authorized by the City, Contractor shall retain such documentation for a period of five (5) years after receipt of final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this five (5) year period.

21.0 Patent Fees and Royalties.

Contractor agrees to defend any claim, action or suit that may be brought against City, its governing body, officers, agents or employees for infringement of any Letters Patent of the United States arising out of the performance of this Contract or out of the use or disposal by or for the account of City of supplies furnished or Work performed hereunder, and Contractor further agrees to indemnify and hold harmless City, its governing body, officers, agents, and employees against all judgments, decrees, damages, costs and expenses recovered against it or them or sustained by it or them on account of any such actual or alleged infringement. It is understood that all royalties and fees for and in connection with

patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment used in or furnished for the Work shall be included in the Contract Price. Final Payment to Contractor by City shall not be made while any suit or claim involving infringement or alleged infringement of any patent remains unsettled.

22.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

23.0 Compliance with Laws.

23.1 The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

23.2 Pursuant to K.S.A. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court of Johnson County, Kansas. These forms may be obtained at the Office of the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Contractor for the awarding of the Contract.

24.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. In case such consent is given, Contractor shall be permitted to subcontract a portion thereof, but shall perform with its own organization, Work amounting to not less than fifty percent (50%) of the total Contract Price. The subcontracting, assignment, delegation or transfer of the Work shall in no way relieve the Contractor of its liability under this Agreement and the bonds applicable hereto.

25.0 Confidentiality.

All reports and documents prepared by Contractor in connection with the performance of this Agreement are confidential until released by City to the public. Contractor shall not make any such documents or information available to any individual or organization not employed by Contractor or City without the written consent of City before any such release.

26.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City:

Ric Gere  
Utilities Staff Engineer  
[rgere@gardnerkansas.gov](mailto:rgere@gardnerkansas.gov)

To Contractor:

Jeffrey J. LeBlanc  
President  
[Jeffrey.leblanc@denaliwater.com](mailto:Jeffrey.leblanc@denaliwater.com)

27.0 Amendments.

27.1 This document represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

27.2 The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized by:

- a. Field Order;
- b. Engineer's review and approval of a Show Drawing or Sample;
- c. Engineer's written interpretation or clarification.

28.0 Waiver of Claims.

Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither payment of any progress or final payment by City, nor the issuance of a certificate of Substantial Completion, nor any use or occupancy of the Work or any part thereof by City, nor any act of acceptance by City nor any failure to do so, nor any correction of Defective Work by City shall constitute an acceptance of Work not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents. The making and acceptance of final payment shall constitute a waiver of all claims by Contractor against City other than those claims previously made in writing against City by Contractor, pending at the time of final payment and identified in writing by Contractor as unsettled as of the time of request for final payment.

29.0 Remedies are not Exclusive.

The duties and obligations imposed by this Agreement and the rights and remedies available hereunder to the parties hereto, including, but not limited to, the warranties, guarantees and obligations imposed upon Contractor and all of the rights and remedies available to City there under, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph shall be as effective as if repeated specifically in the Contract Documents in connection

with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents shall survive Final Payment and termination or completion of this Agreement.

30.0 No Third Party Beneficiaries.

City and Contractor specifically agree that this Agreement is not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

31.0 Force Majeure.

City shall not be responsible for any delay or failure of performance resulting from fire, flood, other acts of God, vandalism, strike, labor dispute of a third party, domestic or international unrest, delay in receipt of supplies, energy shortage or failure, or any other cause beyond its reasonable control.

32.0 Titles.

The titles in this Agreement and the Contract Documents are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

33.0 Negotiations.

City and Contractor agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

34.0 Costs and Attorneys Fees.

If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

35.0 Severability.

If any term or portion of this Agreement or the Contract Documents is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement and the contract Documents shall continue in full force and effect.

36.0 Authority to Enter into Agreement.

Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement and the Contract Documents. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

37. Incorporation of Appendices.

Exhibit A - Invitation for Bid for City PROJECT 2021 Hillsdale WTP Waste and Residuals Pond Cleanout,

Exhibit B - Contractor's Response to City PROJECT 2021 Hillsdale WTP Waste and Residuals Pond Cleanout;

Exhibit C - General Conditions;

Exhibit D - Special Conditions

Exhibit E - Measurement and Payment

37.0 Entire Agreement.

This Agreement and the Contract Documents represent the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

38.0 Governing Law and Venue.

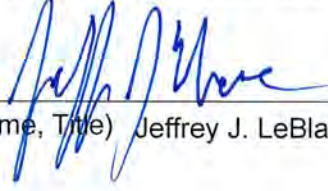
This Agreement and the Contract Documents shall be governed by the laws of the State of Kansas and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF GARDNER, KANSAS

CONTRACTOR ; Denali Water Solutions LLC

\_\_\_\_\_  
(Mayor/City Administrator)

  
\_\_\_\_\_  
(Name, Title) Jeffrey J. LeBlanc, President

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Ryan Denk, City Attorney

**EXHIBIT A**  
**CITY OF GARDNER, KS REQUEST FOR BIDS**  
**2021 Hillsdale WTP Waste and Residuals Pond Cleanout**





## INVITATION FOR BIDS

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

**Issue Date:** January 19, 2021

**Bid Deadline and Opening:** February 2, 2021 at 12:00 PM  
City of Gardner - Utilities Department  
1150 E Santa Fe Street  
Gardner, KS 66030

**Contact:** Ric Gere, Utilities Staff Engineer  
Phone: 913.568.8123  
Email: rgere@gardnerkansas.gov

**Description:** The City of Gardner is requesting bids from qualified Contractors for the purpose of providing the removal and disposal of approximately 4,300 cubic yards of wasted water and residuals from the west existing holding basin pond located at the Hillsdale Water Treatment Plant, 22705 Moonlight Road. Contractor shall provide all equipment and labor required to clean out sludge holding pond. Removal of material shall be accomplished using pumping equipment into vehicles suitably equipped to handle the material without leakage. All removal and disposal of all material in pond is expected to be completed by April 1, 2021.

Copies of bid documents can be viewed or purchased for a Non-Refundable fee on-line at [www.drexeltech.com](http://www.drexeltech.com) in their eDistribution plan room, additional assistance is available at [distribution@drexeltech.com](mailto:distribution@drexeltech.com). Information regarding this project can be found in the "Public Jobs" link on the website. Contractors desiring the Contract Documents for use in preparing bids may also obtain a set of such documents from Drexel Technologies; 10840 West 86th Street, Lenexa, KS 66214, 913-371-4430. Bidding documents will be shipped only if the requesting party assumes responsibility for all related charges. Corporate, certified, or cashier's checks shall be made payable to Drexel Technologies, Inc.

Sealed Bids are due prior to the Bid Deadline indicated above and must be marked "Bid for: **2021 Hillsdale WTP Waste and Residuals Pond Cleanout.**"

Any Bid received after the designated closing time will be returned to Bidder unopened.

No oral, telegraphic, facsimile or telephonic Bids or Bid alterations or corrections will be considered.

The City reserves the right to accept or reject any and all Bids and to waive any technicalities or irregularities therein. Bids may only be withdrawn or corrected pursuant to the provisions of K.S.A. 75-6902, as amended, et seq. Bids may be modified or withdrawn by written request of the Bidder if such requests are received in the office of the City Clerk, prior to the time and date for Bid opening.

The project qualifies for sales tax exemption for purchasing materials and supplies.





**TABLE OF CONTENTS**  
**2021 Hillsdale WTP**  
**Waste and Residuals Pond Cleanout**

---

**INVITATION FOR BIDS**

<b>INSTRUCTIONS TO BIDDERS.....</b>	<b>1</b>
<b>TERMS &amp; CONDITIONS.....</b>	<b>7</b>
<b>AGREEMENT.....</b>	<b>9</b>
<b>GENERAL CONDITIONS .....</b>	<b>28</b>
<b>SPECIAL CONDITIONS .....</b>	<b>42</b>
<b>MEASUREMENT AND PAYMENT.....</b>	<b>45</b>
<b>PROPOSER’S AFFIDAVIT.....</b>	<b>46</b>
<b>BID FORM.....</b>	<b>47</b>
<b>BIDDER’S QUALIFICATION.....</b>	<b>49</b>
<b>SUBCONTRACTOR’S QUALIFICATION.....</b>	<b>51</b>
<b>CERTIFICATE OF NONDISCRIMINATION.....</b>	<b>53</b>
<b>NONCOLLUSION AFFIDAVIT OF PRIME BIDDER.....</b>	<b>54</b>
<b>BOND FORMS</b>	
<b>BID BOND.....</b>	<b>55</b>
<b>MAINTENANCE BOND.....</b>	<b>56</b>
<b>PERFORMANCE BOND.....</b>	<b>58</b>
<b>STATUTORY PAYMENT BOND.....</b>	<b>60</b>





## INSTRUCTIONS TO BIDDERS

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

---

#### A. General Statement:

The Bidder shall submit all bids on the forms provided as part of these Bid Documents and in compliance with these Instructions. All appropriate blanks shall be filled-in and the appropriate individual on behalf of him/herself or the entity submitting the bid shall sign the Bid Proposal. Each bid must be enclosed in a sealed envelope plainly marked **“2021 Hillsdale WTP Waste and Residuals Pond Cleanout”**. Pursuant to the Notice to Bidders, Bids shall be addressed to “City of Gardner, Kansas, Attention: “Ric Gere”.

#### B. Bidding Documents:

1. Bidding Documents and Plans may be obtained from:  
Drexel Technologies  
[www.drexeltech.com](http://www.drexeltech.com)  
10840 W. 86<sup>th</sup> Street  
Lenexa, KS 66214
2. Complete sets of Bidding Documents shall be used in preparing Bids. Bidding documents consist of the Bid, Contract, and any Plans or other supporting documentation.
3. Neither the City, nor any employee, nor any entity in contract with the City, assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.
4. The City, in making copies of the Bid Documents available on the above terms, does so only for the purpose of obtaining bids on the Work and does not confer a license or grant for any other use.
5. Bids shall include furnishing all labor, materials, equipment and performing the Work for the project in strict accordance with the Bidding Documents and any Addenda.

#### C. Inquiries:

Inquiries regarding the project should be directed to:

Ms. Lisa Elmore  
Water Plant Supervisor  
(913) 856-7245  
[lelmore@gardnerkansas.gov](mailto:lelmore@gardnerkansas.gov)

The City’s representative for the duration of this project is:

Ric Gere  
Utilities Staff Engineer  
(913) 568.8123  
[rgere@gardnerkansas.gov](mailto:rgere@gardnerkansas.gov)

**D. Project Timeline:**

The following dates are provided in addition to those previously stated to help interested Bidders in planning participation in the project herein. The dates listed, however, are in no way guaranteed and are subject to change without notice.

Bid Issue Date	January 19, 2021
Bid Opening	February 2, 2021 at 12:00 p.m.
UAC Meeting	February 4, 2021
City Council Meeting	February 15, 2021
Project Completion	Prior to April 1, 2021

**E. Bidders Representation:**

In order to induce the City to accept their Bid, in addition to and not in lieu of any other representations and warranties contained in the Bidding Documents, the Bidder represents and warrants the following to the City:

1. The Bidder and their subcontractors are financially solvent and possess sufficient working capital to complete the Work and perform all obligations hereunder;
2. The Bidder is able to provide the tools, materials, supplies, equipment, and labor required to complete the Work and perform the Bidder's obligations hereunder;
3. The Bidder is now and will continue to be authorized to do business in the State of Kansas, and is now and will continue to be properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Bidder and over the Work and the Project;
4. The Bid and execution of the Bidding Documents and the Bidder's performance thereunder are within the Bidder's duly authorized powers;
5. The Bidder has made an exhaustive study of the Bidding Documents; understands the terms and provisions thereof; has sought or will timely seek any and all necessary clarifications prior to submitting the Bid and that the Bid is made in accordance with the foregoing;
6. The Bidder has visited the project site and is completely familiar with any local and special conditions under which the Work is to be performed and has correlated such knowledge with the requirements of the Bidding Documents;
7. The Bid is based upon the materials, systems, and equipment described in the Bidding Documents without exception;
8. The Bidder certifies that his bid is submitted without collusion, fraud, or misrepresentation as to other Bidders, so that all bids for the project result from a free, open and competitive bidding environment;
9. The Bidder possess a high level of experience and expertise in the business administration, management, and superintendence of projects of the size, complexity, and nature of this particular project, and that the Bidder will perform the Work with care, skill and diligence of such a Contractor;
10. The Bidder acknowledges that the City is relying upon this Bidder's skill and experience in connection with the Work being bid herein;
11. That complete sets of Bidding Documents were used in preparing the bid and that the City is not responsible for errors or misinterpretations resulting from the use of incomplete sets of such documents.



**F. General Instructions:**

1. The foregoing warranties are in addition to, and not in lieu of (A) any and all other liability imposed upon the Contractor by law with respect to the Contractor's duties, obligations, and performance of the Work and, (B) any and all other warranties, representations and certifications made in the Bidding Documents. The Contractor's liability hereunder shall survive the City's final acceptance of and payment for the Work. All representations and warranties set forth herein and in the Contract Documents shall survive the final completion of the Work or the earlier termination of this Agreement.
2. Any or all Bidders may be required by the City to furnish information to support the Bidder's capability to fulfill the Contract if awarded the Contract. Such information does not need to be submitted with the Bid, but may be requested at the City's option. Such information may include, but not be limited to, the following:
  - i. Proof of registration with the Kansas Director of Taxation (K.S.A. 79-1009).
  - ii. Proof of registration with the Kansas Secretary of State.
  - iii. List of projects of similar size and type the Bidder has constructed or in which the Bidder has been engaged in a responsible capacity.
  - iv. Evidence the Bidder maintains a permanent place of business.
  - v. A current financial statement.
3. Examination: Before submitting a Bid, each Bidder shall examine carefully all documents pertaining to the work and visit the site to fully inform himself of the condition of the site and the conditions and limitations under which the work is to be performed.
4. Submission of a Bid will be considered presumptive evidence that the Bidder has fully informed himself of the conditions of the site, requirements of the Contract Documents, and of pertinent national, state and local codes and ordinances, and that the Bid made allowances for all conditions, requirements and contingencies.
5. Bidder requiring clarification or interpretation of the Bidding Documents shall make such requests (in writing only) of the Project Manager at least seven (7) days before the date for receipt of bids.

**G. Addenda:**

1. Any interpretations, corrections or changes to the Bidding Documents will be made by Addenda.
2. Written Addenda will be distributed on-line through [www.drexeltech.com](http://www.drexeltech.com) to all plan holders registered with Drexel Technologies.
3. Copies of written Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.
4. Addenda will be issued no later than four days prior to the date for receipt of Bids, except an addendum withdrawing the request for Bid Proposals, or one, which includes postponement of the date for receipt of Bid Proposals.
5. Each Bidder shall ascertain prior to submitting his Bid that he has received all written addenda issued, and he/she shall acknowledge its receipt in his Bid.

**H. Substitutions:**

1. Each Bidder represents that his bid is based upon materials and equipment described in the bidding documents.
2. No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the City at least seven (7) days prior to the date of the Bid opening.
3. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation.

4. A statement setting forth any changes in other materials, equipment or other Work that incorporation of the substitute would require shall be included.
5. The burden of proof of the merit of the proposed substitute is upon the proposer.
6. The City's decision of approval or disapproval of a proposed substitution shall be final.
7. If the City approves any proposed substitution, such approval will be set forth in a written addendum. Bidders shall not rely upon approvals made in any other manner.
8. No substitution will be considered after the Contract award unless specifically provided in the Contract Documents.

**I. Preparation of Bids:**

1. Bids shall be made upon the form provided in these Bidding Documents.
2. All blanks must be filled in with ink or type. Blanks left on the Bid form may cause a bidder to be disqualified. The completed form shall be without alteration or erasure.
3. If a bid on all alternates is not required for alternate items, a written indication of "no Bid" on the Bid form is required.
4. Amounts shall be expressed in both words and figure, and in case of discrepancy between the two, the amount in words shall govern.
5. Sign Bid form in longhand, with name typed below signature. Where Bidder is a Corporation, Bids must be signed with the legal name of the Corporation, followed by the legal signature of an officer authorized to bind the Corporation to a contract.

**J. Submission:**

Provide one (1) original and one (1) copy of the Bid, Bid Security and other documents required to be submitted with the Bid Package shall be enclosed in a sealed envelope with the notation "**Bid Enclosed**" on the face thereof and plainly marked "**Bid for: 2021 Hillsdale WTP Waste and Residuals Pond Cleanout.**"

Pursuant to the Invitation for Bids, Bid packages shall be addressed and submitted/delivered to:

Attention: Ric Gere  
City of Gardner, Kansas - Utilities Department  
1150 E. Santa Fe Street  
Gardner, KS 66030.

**K. Modification and Withdrawal:**

Bids may only be withdrawn or corrected pursuant to the provisions of K.S.A. 75-6901, as amended, et seq.

**L. Consideration of Bids/Selection Process:**

1. The City reserves the right to reject any and all Bids; to waive any and all technicalities, irregularities and formalities; to negotiate contract terms with the successful Bidder; and the right to disregard all non-conforming, non-responsive or conditional Bids.
2. In evaluating Bids and determining the lowest responsible Bidder, City shall consider qualifications of the Bidders.
3. Each Bidder shall submit on a form provided for that purpose, a Statement of Bidder's Qualifications, when required by the City.
4. The City may consider the qualification and experience of Bidders and subcontractors and other persons and organizations, including suppliers, proposed to be involved in the project. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment may also be considered by the City.

5. The City may conduct any such investigation it deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Bidders, proposed subcontractors and other persons, organizations and suppliers, to do Work in accordance with the contract documents to the City's satisfaction within the prescribed time.

**M. State of Kansas Preference**

1. State law, K.S.A. 75-3740a, requires that, to the extent permitted by federal law and regulations when letting contracts for Bids, the City must require any Bidder domiciled outside the state of Kansas to submit a Bid the same percent less than the lowest Bid submitted by a responsible Kansas Bidder as would be required of such Kansas domiciled Bidder to succeed over the Bidder domiciled outside Kansas on a like contract let in the foreign Bidder's domiciliary state.
2. All Bidders domiciled outside of the State of Kansas shall furnish City with a copy of their state's preferential Bidding statutes and the applicable percent received by in-state Bidders from the state in which the contract is located.

**N. Subcontractors**

1. The Contractor shall not award subcontracts, which total more than forty-five percent (45%) of the contract and shall perform, within its organization, work amounting to not less than fifty-five percent (55%) of the total contract price.
2. The Contractor shall submit the names of subcontractors for approval by the City prior to award of the contract.

**O. Award of Contract:**

1. The contract will be awarded to the lowest responsive, responsible Bidder as determined by the City and shall be required to enter into a contract with the City.
2. If the contract is awarded, the City will give the successful Bidder a Notice of Award within sixty (60) days after the day of the Bid opening.

**P. Notice To Proceed:**

1. No work shall commence until the City issues a Notice To Proceed, and a Notice To Proceed will not be issued until all of the following are delivered to the City.
  - i. The Contract signed by the representative with authority and ability to do so.
  - ii. Bonds with the attached powers of attorney.
  - iii. Certificate of Insurance listing the City as Additional Insured.
  - iv. Certificate of Nondiscrimination.
  - v. List of subcontractors and suppliers.
  - vi. Corporate Resolution of authority to sign and deliver the Contract Documents, executed by the Corporation's Secretary or Assistant Secretary and dated prior to all other submittals.
  - vii. Domestic (Kansas) corporations shall furnish evidence of good standing in the form of a Certificate signed by the Kansas Secretary of State.
  - viii. Foreign (non-Kansas) corporations shall furnish evidence of authority to transact business in Kansas, in the form of a Certificate signed by the Kansas Secretary of State.
  - ix. Construction schedule with major milestones.
2. Such documents must be delivered with ten (10) days of the City's written notification to the successful Bidder. If they are not delivered within such time then the Bidder will be deemed to have abandoned its contract with the City, and the City will award a contract to the next lowest and best Bid.

3. The successful Bidder shall not make claim either for time or money against the City for labor or materials performed or delivered prior to issuance of the Notice to Proceed.
4. The City's responsibility to issue a Notice to Proceed is expressly conditioned on the Contractor's timely execution and delivery prior to issuance of the Notice to Proceed.

**Q. Payment by City:**

1. Payments by the City may be made using any of the following methods of payment, in its sole discretion:
  - i. ACH or wire transfer
  - ii. Check – checks will be mailed to the Contractor's place of business
  - iii. Credit/Purchasing Card for payments under \$1,000
2. The successful bidder will be required to submit financial information as required by the City to enable the use of the aforementioned payment methods and to enable the City to properly report such payments as required by federal law.

**R. Project Completion:**

Upon satisfactory completion of the Contract, a formal Certificate of Completion will be forwarded to the Contractor by the City. The date of substantial completion of the Project will be the starting date of the guarantee period.

**S. Indemnity/Hold Harmless Agreement:**

The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Gardner and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Contractor under the terms of any agreement that may arise due to the bidding process. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.

**T. Open Record:**

Sealed bids received by the City pursuant to this solicitation will be temporarily exempt from disclosure in accordance with the Kansas Open Records Act. Thereafter, bids will be open for inspection by any person pursuant to the Kansas Open Records Act.

**U. Taxes:**

The City of Gardner, as an agency of the State of Kansas, is exempt from paying Kansas sales or use tax per K.S.A. 79-3606 (b), as well as contractors hired by the City who purchase tangible personal property for the use in constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the City. The successful bidder shall be required to comply with K.S.A. 79-3606, as amended. The City's tax-exempt status is valid only when items purchased outside the State are delivered within the State of Kansas.

**V. All Work:**

Shall be in accordance with all Federal and State Laws, Local Ordinances and Building Codes, and the Americans with Disabilities Act, as amended.

## **TERMS & CONDITIONS**

### **A. Bid Guarantee:**

1. Bid Security is required in the amount of at least (5%) of the Bid plus all add Alternates. Bid Security can be in the form of certified or Cashier's Check or Bid Bond acceptable to the City of Gardner, Kansas. Checks are to be made payable to the City of Gardner, Kansas and drawn on a solvent Kansas bank or trust company.
2. Bid Bonds shall be written by a bonding agency approved by the United States Treasury Department and licensed to do business in the State of Kansas.
3. The amount of said Bid Security may be retained by and forfeited to the City of Gardner, Kansas as liquidated damages, if such proposal is accepted, the Contract awarded, and the Bidder fails to enter into a Contract in the form prescribed, with the required bonds, within ten (10) days after such award is made by the City of Gardner, Kansas.
4. The City of Gardner, Kansas reserves the right to retain the Bid Security of the three (3) lowest Bidders until the successful Bidder has entered into an agreement or until sixty (60) days after Bid opening, whichever is the shorter period. All other Bid Securities will be returned as soon as possible.

### **B. Bonds:**

1. Performance Bond, Maintenance Bond and Statutory Payment Bond shall be furnished to the City, by the Contractor, for all contracts over \$100,000, in an amount equal to 100 percent of the Contract sum.
2. The Statutory Payment Bond shall be filed in the office of the District Court of Johnson County. Contractor shall provide the City with a certified copy of said statutory bond as so filed.
3. Bonds furnished shall be written by a surety approved by the U.S. Treasury Department and licensed to do business in the State of Kansas. No work shall commence until bonds are in force.
4. Power of Attorney for the surety company agent must accompany each bond issued, and must be certified to include the date of the bonds.
5. Cost of the bond shall be included in the bid and paid for by the Contractor.

### **C. Insurance:**

Any bidder receiving an award shall be required to provide proof of this insurance, in the form of a Certificate of Insurance, listing the City of Gardner as an additional insured. The following insurance(s) shall be required:

- ☐ Workers' Compensation and Employer's Liability – Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
- ☐ Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- ☐ Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.

- Additional Insurance - The Contractor shall be required to purchase an Owner's Protective Liability Insurance Policy, issued on an occurrence basis and covering bodily injury (and death) and property damage, naming the City as named insured. The liability limits shall be as stated in the Instructions to Bidders or in the Special Conditions. The original policy shall be placed on file with the City and maintained during the life of the Contract. Such policy shall contain no exclusion relative to any function performed by the City or its employees and agents in connection with the Work.
- Special Hazards - Additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Special Conditions

**D. Taxes:**

It is the intent of the City to supply the Contractor with a Sales and Compensating Tax Exemption Certificate for use in purchasing materials and supplies used on qualifying projects. Qualifying projects will be identified in the Notice to Bid.

1. The Contractor shall, in preparing his proposal, omit from his computed costs all sales and service taxes for qualifying projects.
2. The Contractor will be furnished a copy of the Project Completion Certification.
3. All invoices must be retained by the Contractor for a period of five (5) years and are subject to audit by the Kansas Department of Revenue.
4. Final payment may be held by the City until the City has received the two Project Completion Certifications from the Contractor along with a Consent.

**E. Term of Contract:**

This contract shall commence the day after date of award by the City unless otherwise stipulated in the Notice of Award Letter. The contract shall remain in effect as reflected on the Bid Form.

**F. Completion Time:**

Substantial completion shall be achieved within **30 calendar days** from the date established in the Notice of Award.

Final completion shall be achieved within 7 calendar days thereafter and upon receiving punch list of incomplete items to complete the **2021 Hillsdale WTP Waste and Residuals Pond Cleanout** as intended by the contract documents.



**EXHIBIT B**  
**CONTRACTOR'S RESPONSE TO BID**  
**2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

Bid Submitted by:

# Denali



## WATER SOLUTIONS

3308 Bernice Avenue Russellville, Arkansas 72802 P: (479) 498-0500

Request for Bid:

2021 Hillsdale WTP

Waste and Residuals Pond Cleanout

Submitted to:

Ric Gere, Utilities Staff Engineer  
City of Gardner - Utilities Department  
1150 E Santa Fe Street  
Gardner, KS 66030  
Phone: 913.568.8123

Submitted by courier



Due Date:

February 2, 2021 at 12:00 PM



January 29, 2020

*Submitted via Courier*

Ric Gere, Utilities Staff Engineer  
City of Gardner - Utilities Department  
1150 E Santa Fe Street  
Gardner, KS 66030

RE: ***Invitation to Bid – 2021 Hillsdale WTP Waste and Residuals Pond Cleanout***

Mr. Gere,

Denali Water Solutions LLC ("Denali" or "Denali Water") is the respondent to the 2021 Hillsdale WTP Waste and Residuals Pond Cleanout. At Denali, our goal is to continuously exceed our Customers' expectations by providing residuals management services at the highest industry standards, driven by our team of seasoned residuals management professionals, our readily available assets, and backed by our outstanding environmental and safety record.

The core of our approach presented in this bid response is to exceed the City of Gardner's expectations as a valued team member through our unparalleled experience in managing and operating biosolids projects. Denali has consistently checked all the boxes when it comes to operations, maintenance, regulatory aspects of biosolids. The Denali team approach provides the opportunity for the City of Gardner to engage trusted biosolids experts throughout the term of the project.

The company prides itself in putting the customers' needs, the environment and safety first. This philosophy has been a primary driver for Denali's success as an environmental services company, and it is the reason Denali will continue to be the premier choice for responsive and ethical residuals management services for public, private and industrial customers across the United States.

Denali is prepared to enter into an agreement with the City of Gardner Utilities Department for providing the removal and disposal of waste water and residuals from the Hillsdale Water Treatment Plant. Denali's employees, partners and experience clearly demonstrates our strength and ability to increase the performance level beyond expectations.

I would like to thank you for reviewing the contents of our bid submittal. Should you need additional clarification, please contact me at 315-374-8645 or by email at [jeffrey.leblanc@denaliwater.com](mailto:jeffrey.leblanc@denaliwater.com). Again, thank you for the opportunity to submit our bid to the City of Gardner - Utilities Department and we look forward to the next steps.

Thank you.

Very truly yours,

  
Jeffrey J. LeBlanc  
President





**PROPOSER'S AFFIDAVIT**  
**2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

This completed Proposer's Affidavit form must be submitted with the Proposer's Bid and will become a part of any agreement that may be awarded. This Proposer's Affidavit must be signed by an authorized representative. If the Proposal Signature Form is not signed by an authorized representative or submitted with the proposal, the proposal is considered non-responsive.

**Please type or print:**

Legal Name of Person, Firm or Corporation: Denali Water Solutions LLC

Address: 3308 Bernice Avenue PO Box 3036

City/State/Zip: Russellville, AR 72802 Russellville, AR 72811

Contact Person: Jeffrey J. LeBlanc

Phone: (315) 374-8645 Email: jeffrey.leblanc@denaliwater.com

Federal ID #: 26-1757145

Type of Organization: ☐ Individual ☐ Small Business ☐ Non-profit  
☐ Partnership ☒ Corporation (LLC) ☐ Joint Venture

Attach copies of all such licenses, permits or certificates issued to the business entity.

The undersigned person by his/her signature affixed hereon warrants that:

- A. He/she is an officer of the organization.
- B. He/she has been specifically authorized to offer a bid in full compliance with all requirements, and conditions, as set for in this Invitation for Bid.
- C. The Proposer complies with all of the requirements of the Bid.
- D. The Proposer certifies all products and services in the bid meet or exceed all requirements of this specification as set forth in the Bid and that all exceptions are clearly identified.
- E. He/she received the following addenda to the Invitation to Bid (indicate number and date of each):

Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_  
Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_  
Addendum No.: \_\_\_\_\_ Dated: \_\_\_\_\_

Authorized Signature:  Date: 01/29/2021

(Title)

Jeffrey J. LeBlanc, President

Subscribed and sworn to before me this 29TH day of January, 2021 by \_\_\_\_\_.

  
(Signature of Notary Public)

My commission expires: Sept. 29, 2024

(seal) **GARY M. ALDRIDGE**

Notary Public - State of New York  
No. 01AL6194373

Qualified in Monroe County

My Commission Expires Sept. 29, 2024



## BID FORM

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

All Bid Pricing is to be in accordance with all General Conditions, Special Conditions, and Minimum Specifications as stated within this Request for Bid. Failure to complete the following form(s) shall result in your Bid being deemed non-responsive and rejected without any further evaluation.

The undersigned Bidder hereby proposes to furnish all material, supplies, transportation, tools, equipment and necessary labor to construct, install, plant and complete all Work stipulated in, required by, and in conformity with the proposed Contract Documents, incorporated herein (including all documents referred to therein) and any and all written addenda thereto, for and in consideration of the unit prices as follows:

**BIDDING COMPANY:** Denali Water Solutions LLC

Item	Description	Unit	Total Cost
1	Sludge Removal and disposal, haul and reestablishment of areas damaged during the project.	LS (Lump Sum)	\$ 54,779.00

**TOTAL BID:** \$ 54,779.00

1. In submitting this Bid, the undersigned declares that it is of lawful age and executed this Bid on behalf of the Bidder named herein, and that the undersigned has lawful authority to do so. The undersigned further declares that it has not directly or indirectly entered into any agreement, expressed or implied, with any Bidder or Bidders, having for its object the controlling of the price or amount of such Bid or any Bids, the limiting of the Bid or Bidders, the parceling or farming out to any Bidder or Bidders, or other persons, of any part of the Agreement or any part of the subject matter of the Bid or Bids or of the profits thereof, and that it has not and will not divulge the sealed Bid to any person whomsoever, except those having a partnership or other financial interest with Bidder in said Bid or Bids, until after the sealed Bid or Bids are opened.
2. The undersigned further declares that it has carefully examined the Notice to Bidders and other Contract Documents, and that it has inspected the actual location of the Work, together with the local sources of supply, and has satisfied itself as to all conditions and quantities, and understands that in signing this Bid Form the undersigned on behalf of the Bidder waives all right to plead any misunderstanding regarding the same.



BID FORM

2021 Hillsdale WTP  
Waste and Residuals Pond Cleanout

3. The undersigned hereby agrees to furnish the required bonds and insurance certificates and execute the Agreement within ten (10) calendar days from and after Notice of Award of the Agreement is delivered to the Bidder, and failure of the Bidder to do so shall constitute a default, and the City may thereafter take such steps to protect its legal rights as it deems in its best interest, including, but not limited to, enforcement of its rights as performance.
5. It is understood that the City will pay monthly pay estimates submitted in accordance with the City of Gardner's claims policy and approved by the Utilities Director, all as provided in the Contract Documents.
6. The undersigned acknowledges receipt of the Plans and Specifications for the Project including the following written addenda (insert "none" if none were received):

NONE

Dated this 29th day of January, 2021.

Denali Water Solutions LLC

[Contractor]

By:

Jeffrey J. LeBlanc, President

Title

3308 Bernice Avenue

Address

Russellville, AR 72802

City, State, Zip

(315) 374-8645

Telephone Number

jeffrey.leblanc@denaliwater.com

E-Mail [if available]

(585) 358-4525

Facsimile Number [if available]





## BIDDER'S QUALIFICATION STATEMENT

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

1. The name, address, telephone number/fax number/email address of the bidder.

Name: Denali Water Solutions LLC

Address: 3308 Bernice Avenue, Russellville, AR 72802

Phone/Fax/Email: (315) 374-8645 / (585) 358-4525 / jeffrey.leblanc@denaliwater.com

2. Years in business 6 years as Denali (25 years experience in the industry)

3. List of contractors owned equipment available for this project. Attach as separate submittal, if necessary.

See Attached Equipment List

4. List of equivalent type projects within the last four (4) years. Attach as separate submittal, if necessary.

i. Name of Client: City of Houston, TX Date of Project: \_\_\_\_\_

Contact Person: Andrew Molly, P.E. Phone: (832) 395-3785

Description of Project: Dewatering and Land Application

ii. Name of Client: Little Rock Water Reclamation Authority Date of Project: \_\_\_\_\_

Contact Person: Scott Kirby Phone: (501) 804-4758

Description of Project: Biosolids Removal and Beneficial Use

iii. Name of Client: City of Edmond, OK Date of Project: \_\_\_\_\_

Contact Person: Kris Neifing Phone: (405) 216-7696

Description of Project: Lagoon Cleanout

5. List of person(s) who will supervise and be available to perform the work on this project and the number of years' experience.

Role:	Names:	Years Experience:
Project Manager:	Jason Golden	14
Superintendent:		
Foreman:		
Other Personnel:		

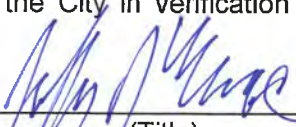
6. List of Proposed Major Subcontractors:

Each bidder shall enter in the space provided the name(s) of major subcontractors the bidder proposes to employ and the type of work the subcontractor will perform. A major subcontractor is defined as a subcontractor whose subcontract constitutes approximately five (5) percent or more of the total contract price.

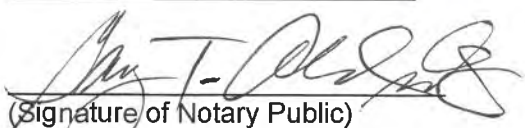
Subcontractor	Address	Phone #	Type/Scope of Work
Not Applicable			

7. Such additional information as will assist the City in determining whether the bidder is adequately prepared to fulfill the contract. Attach a separate submittal, if necessary.

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of bidder's qualifications.

Authorized Signature:  Date: 01/29/2021  
(Title)  
Jeffrey J. LeBlanc, President

Subscribed and sworn to before me this 29th day of January, 2021 by

  
(Signature of Notary Public)

My commission expires: Sept. 29, 2024

(seal, if any)  
**GARY T. ALDRIDGE**  
Notary Public - State of New York  
No. 01AL6194373  
Qualified in Monroe County  
My Commission Expires Sept. 29, 2024



## SUBCONTRACTOR'S QUALIFICATION STATEMENT

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

Please fill out a form for each subcontractor the contractor proposes to employ. Copy this form if additional forms are required and attach as separate submittals to the Proposal.

1. The name, address, telephone number/fax number/email address of the Subcontractor.

Name: NOT APPLICABLE

Address: \_\_\_\_\_

Phone/Fax/Email: \_\_\_\_\_

2. Years in business \_\_\_\_\_

3. List of Subcontractors owned equipment available for this project. Attach as separate submittal, if necessary.

\_\_\_\_\_  
\_\_\_\_\_

4. List of equivalent type projects within the last four (4) years. Attach as separate submittal, if necessary.

i. Name of Client: \_\_\_\_\_ Date of Project: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Description of Project: \_\_\_\_\_  
\_\_\_\_\_

ii. Name of Client: \_\_\_\_\_ Date of Project: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Description of Project: \_\_\_\_\_  
\_\_\_\_\_

iii. Name of Client: \_\_\_\_\_ Date of Project: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone: \_\_\_\_\_

Description of Project: \_\_\_\_\_  
\_\_\_\_\_

5. List of person(s) who will supervise and be available to perform the work on this project and the number of years' experience.

<b>Role:</b>	<b>Names:</b>	<b>Years experience:</b>
Project Manager		
Superintendent		
Foreman:		
Other Personnel:		

6. Such additional information as will assist the City in determining whether the bidder is adequately prepared to fulfill the contract. Attach a separate submittal, if necessary.

---

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of subcontractor's qualifications.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Title)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by

\_\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public) (seal, if any)

My commission expires: \_\_\_\_\_



**CERTIFICATE OF NONDISCRIMINATION  
MANDATORY PROVISIONS**

**2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

K.S.A. § 44-1030(a) provides that every contract for or on behalf of the City of Gardner, Kansas for the construction, alteration or repair of any public building or public work or for the acquisition of materials, equipment, supplies or services shall contain provisions by which the contractor agrees to the following:

- (1) that the contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, age, national origin or ancestry;
- (2) that in all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer," or similar phrase as approved by the state commission;
- (3) that if the contractor fails to comply with the manner in which the contractor reports to the state commission in accordance with the provision of K.S.A. § 44-1031 and amendments thereto, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City of Gardner;
- (4) that if the contractor is found guilty of a violation of the Kansas Act Against Discrimination under decision or order of the state commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City of Gardner; and
- (5) that the contractor shall include the provisions of K.S.A. § 44-1030(a) subsections (1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of K.S.A. § 44-1030(a) shall not apply to a contract entered into by a contractor: (1) who employs fewer than four (4) employees during the term of such contract; or (2) whose contracts with the City of Gardner cumulatively totals \$5,000 or less during the same fiscal year.

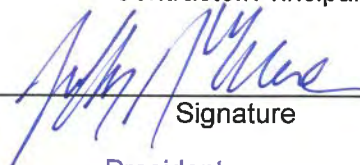
**By signing this Certificate of Nondiscrimination, contractor acknowledges inclusion of the requirements of K.S.A. 44-1030(a) in the base contract and in all subcontracts.**

DATE: 01/29/2021

Denali Water Solutions LLC / Jeffrey J. LeBlanc

Contractor/Principal

By:



Signature

CORPORATE SEAL

President

(Official Title of Signer)



NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

2021 Hillsdale WTP Waste and Residuals Pond Cleanout

STATE OF New York  
COUNTY OF Monroe

Jeffrey J. LeBlanc, being first duly sworn deposes and says that:

- (1) He is President of Denali Water Solutions LLC, the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees of parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Gardner, KS or any person interested in the proposed Contract;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

By: 

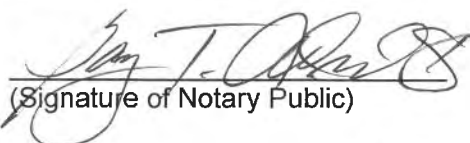
Name: Jeffrey J. LeBlanc

Title: President

Bidder: Denali Water Solutions LLC

Subscribed and sworn to before me this 29th day of January, 2021 by

Jeffrey J. LeBlanc

  
(Signature of Notary Public)

My commission expires: Sept. 29, 2024

(seal, if any)

GARY T. ALDRIDGE  
Notary Public - State of New York  
No. 01AL6194373  
Qualified in Monroe County  
My Commission Expires Sept. 29, 2024





## BID BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

**KNOW ALL MEN BY THESE PRESENTS**, that Denali Water Solutions LLC as Principal, hereinafter called the Principal, and Argonaut Insurance Company a corporation duly organized under the laws of the State of IL as Surety, hereinafter called the Surety, are held and firmly bound unto the City of Gardner Kansas, as Obligee, hereinafter called the Obligee, in the sum of Five Percent of Amount Bid Dollars (\$ 5% ), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the Principal has submitted a bid for the following project:

**PROJECT: 2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

**NOW THEREFORE**, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this/her obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this/her 2nd day of February, 2021.

Denali Water Solutions LLC

[SEAL]

[Contractor/Principal]

Jeffrey D. LeBlanc, President  
[Title]

ATTEST:

[Secretary]

Gary Aldridge, Project Assistant

Argonaut Insurance Company

[Surety Company]

[SEAL]

By:

Sharon A. Foulk, [Attorney-in-fact]

State of Illinois } ss:  
County of Cook

On this 2<sup>nd</sup> day February in the year two thousand twenty one, before me, Kathleen Moesle-Weaver, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Sharon A. Foulk known to me to be the duly authorized Attorney-in-fact of the Argonaut Insurance Company and the same person whose name is subscribed to the within instrument as the Attorney-in-fact of said Company and that Sharon A. Foulk duly acknowledged to me that she subscribed the name of the Argonaut Insurance Company and thereto as Surety and her own name as Attorney-in-fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.

1/7/2024  
Notary Public in and for Kathleen Moesle-Weaver  
City, State of Rolling Meadows, Illinois



**Argonaut Insurance Company**  
**Deliveries Only: 225 W. Washington, 24th Floor**  
**Chicago, IL 60606**

**United States Postal Service: P.O. Box 469011, San Antonio, TX 78246**

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

William T. Krumm, Sharon A. Foulk, Jodie Sellers, Patrick M. Gallagher, Karen E. Socha, Kathleen Weaver, Jon A. Schroeder

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$85,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.

Argonaut Insurance Company



by: \_\_\_\_\_

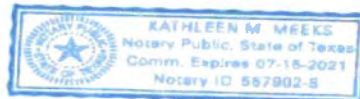
Joshua C. Betz, Senior Vice President

STATE OF TEXAS

COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



Kathleen M. Meeks

(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 2nd day of February, 2020.



James Bluzard

James Bluzard, Vice President-Surety

THIS DOCUMENT IS NOT VALID UNLESS THE WORDS ARGO POWER OF ATTORNEY ARE IN BLUE. IF YOU HAVE QUESTIONS  
ON AUTHENTICITY OF THIS DOCUMENT CALL (210) 321 - 8400.



## MAINTENANCE BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

---

#### KNOW ALL MEN BY THESE PRESENTS:

That we, \_\_\_\_\_ as the "Principal," hereinafter referred to as "Contractor," and \_\_\_\_\_ as and hereinafter referred to as the "Surety," a corporation organized under the laws of the State of \_\_\_\_\_ and authorized to transact business in the State of Kansas, are held and firmly bound unto the CITY OF GARDNER, KANSAS hereinafter referred to as "City," in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the payment of which sum, well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

THE CONDITIONS OF THIS BOND are such that:

WHEREAS, Contractor has executed a written Agreement, including the Contract Documents, with City to construct certain improvements referred to as **2021 Hillsdale WTP Waste and Residuals Pond Cleanout**, more particularly described in the Agreement and the Contract Documents dated \_\_\_\_\_, 20\_\_\_\_, the Agreement and the Contract Documents are made a part hereof by reference as if fully set out herein.

The Contractor, upon completion of the Agreement and upon acceptance by the City of Gardner, in accordance with the Contract Documents, approved plans and specifications with no unacceptable deviations thereof, has agreed to guarantee and maintain the construction and installation, including all materials and workmanship, for the period of two years beginning on the date that each City so accepts said work, said date being the formal acceptance date.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alternation or addition to the terms of the Agreement or other Contract Documents, Specifications and Plans, to the work to be performed thereunder, or the specifications accompanying the same, shall in any way effect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the specification. Surety further agrees that any person to whom there is due any sum for labor or material furnished, as herein before stated, or said person's assigns, may bring action on this bond for the recovery of said indebtedness; PROVIDED, that no action shall be brought on said bond after twenty-four (24) months from the completion of said public improvements.

NOW, THEREFORE, if Contractor has constructed and completed or caused to be constructed and completed the entire improvement in strict compliance with the Agreement and Contract Documents, including all documents incorporated therein, between City and Contractor, and all applicable laws, rules, and regulations such as, but not limited to, those set forth in the Code of the City including the Minimum Standards for the Design and Construction of Streets, Sanitary Sewers, Water Lines, and

Storm Drainage Improvements, completed to the satisfaction of the City Engineer and with such materials and in such manner that the same shall endure without need of repairs or maintenance for a period of (2) two years from and after the completion and acceptance by City's governing Body; and if said improvement shall actually endure without the need of repairs or maintenance for the period of (2) two years from and after the completion and acceptance thereof as aforesaid, then this obligation shall be null and void.

PROVIDED, that if the improvement requires repairs or maintenance within such (2) two year period then this obligation shall remain in full force and effect and Contractor and the Surety shall be responsible for the prompt payment of the penal sum to the City for such repairs and/or maintenance including any incidental costs associated therewith, including but not limited to the costs of consultants and/or engineering investigations, testing, analysis and any other costs incurred to determine the cause of defect and/or the necessary repair and maintenance and attorney fees incurred in collection of this Maintenance Bond.

PROVIDED, FURTHER, that if said Contractor fails to duly and faithfully guarantee and maintain said work, the Surety will pay for the same in any amount not exceeding the amount of this obligation, together with interest as provided by law.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[SEAL]

\_\_\_\_\_  
[Contractor/Principal]

\_\_\_\_\_  
[Title]

[SEAL]

\_\_\_\_\_  
[Surety Company]

By:

\_\_\_\_\_  
[Attorney-in-fact]

By:

\_\_\_\_\_  
[Kansas Agent]

(Accompany this Bond with Attorney-in-Fact's authority from the surety company certified to include the date of the bond.)





## PERFORMANCE BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

**KNOW ALL MEN BY THESE PRESENTS** that we, the undersigned of \_\_\_\_\_, as Principal, hereinafter referred to as the "Contractor," and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Kansas, hereinafter referred to as the "Surety," are held and firmly bound unto the CITY OF GARDNER, KANSAS hereinafter referred to as "City," in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States of America, for the payment of which sum, well and truly to be made to the City of Gardner, Kansas, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents:

#### THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

**WHEREAS**, the above bonded Contractor, has on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, executed a written Agreement with the City for furnishing in a good, substantial and workmanlike manner all construction labor, materials, equipment, tools, transportation, superintendence, and other facilities and accessories, for and in connection with the satisfactory and timely performance of all Work and construction of certain improvements referred to as **2021 Hillsdale WTP Waste and Residuals Pond Cleanout**, more particularly designated, defined and described in the Agreement and the Contract Documents, and in accordance with the Specifications and Plans and other Contract Documents thereto; a copy of said Agreement is attached hereto and made a part hereof.

**NOW THEREFORE**, if said Contractor shall and will, in all particulars promptly and faithfully perform and abide by each and every covenant, condition, and part of said Agreement, and the Conditions, Specifications, Plans and other Contract Documents hereto attached or by reference made a part hereof, according to the true intent and meaning in each case, and said improvements shall be constructed and completed in strict accordance with the Contract Documents, conditions, specifications, plans and other documents, and if said Contractor shall replace all defective parts, material and workmanship for a period of two (2) years after acceptance by the City, then this obligation shall be and become null and void; otherwise it shall remain in full force and effect.

**PROVIDED**, if said Contractor fails in any particulars to duly and faithfully observe, perform and abide by each and every covenant, condition, and part of the said Agreement and the Conditions, Specifications, Plans and other Contract Documents, thereto attached, or, by reference made a part thereof, according to the true intent and meaning in each case, or if said Contractor shall fail to replace all defective parts, material and workmanship for a period of two (2) years after acceptance by the City then the surety will pay the costs to complete the project and/or the costs to repair any defective parts for the period of two (2) years after acceptance, and any other damages incurred by the owner in procuring completion and/or repair, such amount not exceeding the amount of this obligation, together with interest as provided by law.

**PROVIDED FURTHER**, that if the said Contractor fails to duly pay for any labor, materials, sustenance, provisions, provender, gasoline, lubricating oils, fuel oils, greases, coal, equipment and tools consumed or used in said work, groceries and foodstuffs, and all insurance premiums,



compensation; liability and otherwise, or any other supplies or materials used or consumed by such Contractor or his, their, or its subcontractors in performance of the Work contracted to be done, the Surety will pay the same in any amount not exceeding the amount of this obligation, together with interest as provided by law.

**PROVIDED, FURTHER**, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement, or Contract Documents or the Work to be performed hereunder, or the Specifications, plans or other documents accompanying the same, shall in any way affect its obligations on this Performance Bond and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the Agreement, or Contract Documents or to the Work, or to the Specifications, plans and other documents.

**PROVIDED FURTHER**, that it is expressly agreed that the bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the contract price more than fifty percent (50%), so as to bind the Contractor and the Surety to the full and faithful performance of the Agreement so amended. The term "amendment," wherever used in this bond, and whether referring to this bond or the Agreement, shall include any alteration, addition, extension, or modification of any character whatsoever.

**IN TESTIMONY WHEREOF**, the said Contractor has hereunto set his/her hand, and the said Surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

\_\_\_\_\_  
[Contractor/Principal]

\_\_\_\_\_  
[Title]

[SEAL]

\_\_\_\_\_  
[Surety Company]

By:

\_\_\_\_\_  
[Attorney-in-fact]

By:

\_\_\_\_\_  
[Kansas Agent]

**NOTE:**

1. Date of bond must not be prior to date of contract.
2. If Contractor is partnership, all partners should execute bond.
3. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Kansas.
4. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.



## STATUTORY PAYMENT BOND

### 2021 Hillsdale WTP Waste and Residuals Pond Cleanout

---

#### KNOW ALL MEN BY THESE PRESENTS:

THAT we, the undersigned, \_\_\_\_\_ of \_\_\_\_\_, hereinafter referred to as "Contractor", and \_\_\_\_\_ a corporation organized under the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Kansas, as "Surety", are held and firmly bound unto the State of Kansas, in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, or heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

#### THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded CONTRACTOR has, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, entered into an Agreement with the City of Gardner, Kansas, for furnishing all tools, equipment, materials and supplies, performing all labor and constructing **Project: 2021 Hillsdale WTP Waste and Residuals Pond Cleanout**, described in the attached Agreement, Contract Documents, Specifications, Plans, and other documents on file in the office of the City Clerk of Gardner, Kansas.

NOW, THEREFORE, if the CONTRACTOR and his SUBCONTRACTORS shall pay all indebtedness incurred for supplies, materials, or labor furnished, used or consumed in connection with, or in, or about the construction or making of, public improvements, including gasoline, lubricating oils, fuel oils, greases, coal, and similar items used or consumed directly in furtherance of such improvements described in the above-mentioned Agreement and Contract Documents, this obligation shall be void; otherwise it shall remain in full force and effect.

PROVIDED, that the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement and the Contract Documents or to the work to be performed thereunder, or the Specifications or Plans accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Agreement, Contract Documents or to the Specifications or Plans.

PROVIDED FURTHER, that the surety agrees that any person to whom there is due any sum for supplies, materials, or labor, as herein before stated, or his assigns, may bring an action on this bond for the recovery of the indebtedness; PROVIDED, that no action shall be brought on the bond after six (6) months from the completion of said public improvements.

PROVIDED FURTHER, that it is expressly agreed that this bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the contract price more than fifty percent (50%), so

as to bind the Contractor and the Surety to the full and faithful performance of the Agreement as so amended. The term "amendment," wherever used in this bond and whether referring to this bond or the Agreement shall include any alteration, addition, extension or modification of any character whatsoever.

IN TESTIMONY WHEREOF, the CONTRACTOR has hereunto set his hand, and said surety has caused these presents to be executed in its name, and its corporate seal to be affixed by its attorney-in-fact duly authorized to do so at \_\_\_\_\_ on this, the day of \_\_\_\_\_, 20\_\_.

[SEAL]

\_\_\_\_\_  
[Contractor/Principal]

\_\_\_\_\_  
[Title]

\_\_\_\_\_  
[Surety Company]

[SEAL]

By:

\_\_\_\_\_  
[Attorney-in-fact]

By:

\_\_\_\_\_  
[Kansas Agent]

NOTE:

1. A Statutory Bond is required only in connection with a Contract exceeding one hundred thousand dollars (\$100,000) in accordance with K.S.A. 60-1111 as amended.
2. Contractor shall be responsible for seeing to it that this Statutory Bond is filed with the Clerk of the District Court for Johnson County, Kansas.
3. Date on bond must not be prior to date of contract.
4. If Contractor is partnership, all partners should execute bond.
5. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Kansas.
6. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.



## Authority to Sign



## **AUTHORITY TO SIGN**

Denali Water Solutions LLC Corporate Evidence of Authority to Sign, Solely for Routine bids and Customer Contracts associated with the handling of Biosolids. This authority does not extend to any other type of contract.

A meeting of the Board of Directors for Denali Water Solutions LLC was held on February 11, 2020. Present at the meeting were Andy McNeill, Rob Currey, B.J. Loessberg, Kevin Dunlap, Todd Sims, and Ransom Langford. During the meeting, the Board of Directors authorized the following to sign contracts and agreements on behalf of Denali Water Solutions LLC:

- Andy McNeill, Chief Executive Officer
- Jeffrey LeBlanc, President
- Rob Currey, Chief Financial Officer
- Scott Walker, Director of Assets & Procurement
- Jeff Thurber, General Manager
- Todd Sims, Chief Investment Officer
- Kevin Dunlap, Chief Operating Officer

A handwritten signature in blue ink, appearing to read "A McNeill", is written over a horizontal line.

**Signed by:** Andy McNeill, Chief Executive Officer



## Equipment List





## EQUIPMENT LIST

The following is a list of equipment available to use for this project. Note that the trucks being used for this project have a hauling capacity of 6,000 gallons.

Description	Category	Manufacturer	Model	Year
2000 New Holland Tractor		New Holland		2000
MACK CHU613	Truck	MACK		2011
TALBERT 30-TON TRI-AXLE LOW BOY TRAILER W/STINGER AXLE OPTION T3DW-30-SRG-T1	TRAILER	TALBERT		2008
Fruehauf Drop Deck Trailer	Trailer	FRUEHAUF		1993
APPALACHIAN DREDGE TRAILER for DR15	Trailer	APPALACHIAN		2009
Econoline 16 Ton Pintle Hitch Trailer	Trailer	ECONOLINE		2007
LAMAR FUEL TRAILER W/PUMP - 500 GALLONS - MODEL 5X8	Trailer	LAMAR		2017
BALZER 4200 LIQUID BUGGY	Buggy	BALZER		2005
HOULE 52' Long 6" Diameter Hog Pump AGI-POMPE AP-L-52T	Pump	HOULE		
HOULE 52' Long 6" Diameter Hog Pump AGI-POMPE AP-L-52T	Pump	HOULE		
PUMP - SUPER VAC ASSIST 4x3 - to run gama-jet & hose reels				
FORD F250 4x4 CREW CAB	Cars & Trucks	FORD	F-250	2018
FORD F150 CREW CAB 4x4 SS	Cars & Trucks	FORD	F-150	2018
RAM 1500 LARAMIE 4x4 CREW CAB	Cars & Trucks	RAM	1500	2019
FORD F250 4x4 CREW CAB	Cars & Trucks	FORD	F-250	2019
2019 Ford F-150 XLT 4x4 SuperCrew Cab		Ford	F-150	2019
2019 Ford F-150 XLT 4x4 SuperCrew Cab		Ford	F-150	2019
2019 Ford F-150 LARIAT 4x4 SuperCrew Cab		Ford	F-150	2019
2019 Ford F-150 XLT 4x4 SuperCrew Cab		Ford	F-150	2019
9'10" SPLAT BOAT				
MACK SPREADER TRUCK, 5-SPEED TRANSMISSION, 419,262 MILES REPORTED CV713	TRUCK	MACK		2004
MACK CHU613 TANDEM AXLE TRACTOR	TRUCK	MACK		2015
MACK GU713 TRACTOR	TRUCK	MACK		2018
MACK GU713 TRACTOR	TRUCK	MACK		2018
MACK CHU613	TRUCK	MACK		2018
Mack GU713 Tank Truck	Truck	MACK		2012
MACK CHU613	Truck	MACK		2003
2019 Mack PI64		Mack		2019
1995 Peterbilt 357 Spreader Truck		Peterbilt		1995
Mack Pressure Tank Truck - Bob Truck	Truck	MACK		2012
INTERNATIONAL WATER TRUCK	Truck	INTERNATIONAL		2006

Description	Category	Manufacturer	Model	Year
INTERNATIONAL WATER TRUCK - EZ Rider	Truck	INTERNATIONAL		1982
PETERBILT 567 TRANSPORT - Bob Truck	Truck	PETERBILT		2017
PETERBILT For Shop Yard Mule	Truck	PETERBILT		1999
0000 OTTAWA YARD MULE	Yard Mule	0000 OTTAWA		2000
PETERBILT 389 TRANSPORT	Truck	PETERBILT		2018
MACK GU813	Truck	MACK		2013
VOLVO VHD84FT200	Truck	VOLVO		2014
FARMSTAR HYDRAULIC 34d MEMBER REEL	Other	FARMSTAR		2009
EMS CONNEX BUILDING	Building	EMS		2000
CUMMINS GREEN HYDRAULIC		CUMMINS		1998
BALZER 4200 LIQUID BUGGY	Buggy	BALZER		2003
NORTHSTAR 6500 DIESEL	Other	NORTHSTAR		2014
BALZER MAGNUM 4200 LIQUID BUGGY	Buggy	BALZER		2007
KUBOTA L4600 Tractor	Farm Tractor	KUBOTA		
H & H FLOATING DREDGE - MDS120 w/TL9201	Pump	H		
ITHACA OFFICE TRAILER - 12'X50', DUAL 15,000 LB AXLE	Building	ITHACA		2016
MILLER BOBCAT WELDER	Other	MILLER		2004
2014 - 7010 MID AMERICA STEEL DECK TRUCK SCALE	Other	2014 - 7010 MID		
HOULE 53' Long 6" Diameter Hog Pump	Pump	HOULE		2013
HOULE 32' Length 6"Diameter Hog Pump	Pump	HOULE		2013
McELROY 125001	Other	MCELROY		1998
John Deere Tractor 8420 MFWD	Tractor	JOHN		2005
VMI Dredge MD-615	Dredge	VMI		2014
HOULE LAGOON PUMP 52	Pump	HOULE		2011
420 RANCHER ATV 4WDw.soil sampling machine OE1001	Yard Mule	420 RANCHER		-
WINTEXAG 2000 Soil Sampling Machine/mounted on AT2	Other	WINTEXAG		2017
FORD F450 PICK UP	Cars & Trucks	FORD	F-450	2012
FORD F450 SD CREW CAB 4X4	Cars & Trucks	FORD	F-450	2006
FORD F-250	Cars & Trucks	FORD	F-250	2017
FORD F-250 LARIAT 4x4 SD CREW CAB	Cars & Trucks	FORD	F-250	2019
FORD F-150 XLT 4X4 SUPERCREW	Cars & Trucks	FORD	F-150	2018
FORD F-150 XLT 4X4 SUPERCREW	Cars & Trucks	FORD	F-150	2018
FORD F150	Cars & Trucks	FORD	F-150	2006
FORD RANGER	Cars & Trucks	FORD	RANGER	2001
FORD RANGER	Cars & Trucks	FORD	RANGER	2005
John Deere Cab Tractor 6140 D w/Loader WL372	Tractor	JOHN		2014
LAYMOR STREETSWEEPER	Other	LAYMOR		-
DODGE RAM 3500	Cars & Trucks	DODGE	3500	2014
SIERRA DENALI 4WD Crew Cab PU	Cars & Trucks	SIERRA	SIERRA	2015

Description	Category	Manufacturer	Model	Year
BALZER MAGNUM 4200 LIQUID BUGGY	Buggy	BALZER		2005
BALZER MAGNUM 4200 LIQUID BUGGY	Buggy	BALZER		
Balzer 4800 Gallon Vac Tank	Buggy	BALZER		2017
Houle 42" Lagoon Pump	Pump	HOULE		2008
AGI 42" Lagoon Pump	Pump	AGI		2015
Houle 52" Lagoon Pump	Pump	HOULE		2012
NISSAN FORK LIFT	FORK LIFT	NISSAN		2001
NEW HOLLAND 8970 FARM TRACTOR	Farm Tractor	NEW		1995
NH 8970 FARM TRACTOR	Farm Tractor	NH		1993
H & H FLOATING DREDGE	Pump	H		2000
JOHN DEERE 444H WHEEL LOADER	Wheel Loader	JOHN		2003
HOLLAND AERWAY AERATOR	Other	HOLLAND		2007
VOLVO WHEEL LOADER	Wheel Loader	VOLVO		2004
BALZER VACUUM TANK 4200 SERIAL # 4701	Buggy	BALZER		1999
TEXWIN CARPORT	Building	TEXWIN		2015
SCALE HOUSE	Building	SCALE		2016
SMALL STORAGE BUILDING (Time Clock)	Building	SMALL		-
BUILDING-	Building	BUILDING		2011
42' SCOTTY BOX FOR WYLIE	Other	42'		-
2007 Submersible 6 In Pump	Pump	2007 SUBMERSIBLE		2007
% SOLID SMART SYSTEM	Other	% SOLID		-
John Deere 4955	Farm Tractor	JOHN		1990
JD 8330 FARM TRACTOR	Farm Tractor	JD		2007
HOULE 52' 8" HOG PUMP	Pump	HOULE		2010
HOULE 52' 8" HOG PUMP	Pump	HOULE		2011
HOULE 52' 6" HOG PUMP	Pump	HOULE		2013
NEW HOLLAND T8030	Farm Tractor	NEW		
New Holland T8020	Farm Tractor	NEW		2008
FARM TRACTOR	Farm Tractor	FARM		2011
NEW HOLLAND T8030	Farm Tractor	NEW HOLLAND		2012
New Holland T8030	Farm Tractor	NEW		2011
NEW HOLLAND T8020	Farm Tractor	NEW		2011
NEW HOLLAND T8030	Farm Tractor	NEW		2011
NEW HOLLAND T8300	Farm Tractor	NEW		2012
NEW HOLLAND T8300	Farm Tractor	NEW		2012
NEW HOLLAND T8.275	Farm Tractor	NEW		2013
NEW HOLLAND T8.275	Farm Tractor	NEW		2013
NEW HOLLAND T7.260	Farm Tractor	NEW		2013
HOULE 52' Long 8" Diameter Hog Pump	Pump	HOULE		2010
ODOR CONTROL SYSTEM - GP - 13HP	Other	ODOR		



Description	Category	Manufacturer	Model	Year
ODOR CONTROL SYSTEM - GP - High Pressure Atomizing System	Other	ODOR		
1000 Gallon Fuel Tank	Other	1000 GALLON		
11 Ft. Flat Bottom Boat	Other	11 FT		
STERLING QUAD CAB 4X4 TRUCK BULLET	PICKUP	STERLING		2008
BIGT UTILITY TRAILER	Utility Trailer	BIGT		2004
Big Tex Tandem Axle Pipe Utility Trailer 70PI-70	Utility Trailer	BIG		2014
DAKOTA UTILITY TRAILER	Utility Trailer	DAKOTA		2012
TRAIL KING pintle hitch trailer	Utility Trailer	TRAIL		2005
MEB UTILITY TRAILER (TILT)	Utility Trailer	MEB		2011
LARK UNITED TRAILER	Trailer	LARK		2015
TRAILMASTER Gooseneck	Utility Trailer	TRAILMASTER		2009
J & L TRAILER	Tanker Trailer	J & L		1971
HOME MADE TRAILER GOOSENECK	Utility Trailer	HOME		2019
2020 Big Tex Utility Trailer		Big Tex		
DRAGON TRAILER		DRAGON		
DRAGON 150BBL ALUMINUM VACUUM TANKERS	Tanker Trailer	DRAGON		2006
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1972
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1972
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1973
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1973
Trailmaster Tank Trailer	Trailer	TRAILMASTER		1973
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1978
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1997
Fruehauf Tank Trailer	Trailer	FRUEHAUF		1986
FRUEHAUF TRAILER	Tanker Trailer	FRUEHAUF		1990
HEIL TRAILER	Tanker Trailer	HEIL		1982
STEPHENS TRAILER 8400 Gallon	Tanker Trailer	STEPHENS		2005
STEPHENS TRAILER	Tanker Trailer	STEPHENS		2001
STEPHENS TRAILER	Tanker Trailer	STEPHENS		2001
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1986
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1982
TRAILMASTER TRAILER	Trailer	TRAILMASTER		1997
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1980
TRAILMASTER TRAILER	Tanker Trailer	TRAILMASTER		1986
VIM	Tanker Trailer	VIM		1986
TRAILMASTER TRAILER	Trailer	TRAILMASTER		2003
TRAILMASTER TRAILER	Trailer	TRAILMASTER		2006
PETERBILT MODEL 389	Truck	PETERBILT		2020



## Statement of Qualifications



## STATEMENT OF QUALIFICATIONS

Denali Water has been in the business of providing residuals management services for the last 24 years and employs a number of experts who have been in the residuals management industry since the 1980s. The Company prides itself in putting the customers' needs, the environment, and safety first. This philosophy has been a primary driver for Denali Water's success as an environmental service company, and it is the reason Denali Water will continue to be the premier choice for responsive and ethical residuals management services for public, private, and industrial customers across the US.

### History

Denali Water was originally founded as Terra Renewal in 1995. The original focus of the company was the handling and disposal of wastewater residuals from industrial plants via land application for beneficial use as a fertilizer. The focus of the business quickly expanded to include municipal biosolids, spent fryer oil and grease, and handling of spent gas and oil exploration and production fluids. At its peak, it was one of the largest waste companies in the United States with operations in greater than 20 states and was land applying greater than one billion gallons of wastewater residuals on over 225,000 acres of farm fields. Ultimately, the company divested of its oil & gas business and its rendering business (i.e. spent fats and greases). As a result of these divestitures, the name of the company was changed to Denali Water Solutions.



In many states, Denali Water was an early pioneer in land application permitting process and has led the industry with safe, responsible management of organic residuals. The Company takes pride in its work and its relationships with customers and with officials in regulatory agencies across the US. The goal of Denali Water is to continue to grow and evolve with this ever-changing industry.

In 2016, Denali combined forces with WeCare Organics LLC and formed a subsidiary known as WeCare Denali LLC which services with mid-Atlantic region on the US, including New York, New Jersey, Maryland, Pennsylvania, and more. The company is now second largest handler of municipal biosolids in the United States, the largest provider of industrial food processing residuals management and operates from coast to coast. Denali offers an array of services including land application, Class A processing, dredging, composting, permitting, mobile dewatering, outsourced dewatering, geo-textile tube dewatering, lagoon and digester cleanout, and transportation services. Recent acquisitions have expanded Denali Water's service offerings in biosolids, green waste, and food waste composting.



### The Denali Team

We believe that we are only as good as our team. Denali has had the same leadership in place since 2002 and has a seasoned team of industry veterans and has had limited turnover in its management team for many years. This is because we foster a culture that makes people proud to say they work at Denali because of how it treats its employees, customers, and the community.



The key personnel working for Denali have a combined 100+ years of experience in the biosolids and residuals transportation and management industry. Whether it's a treatment facility producing as little as 300 tons per year or 150,000 tons per year, our experienced, friendly, and knowledgeable staff has provided years of success and satisfaction for our clients.

---

#### **ANDY MCNEILL - CHIEF EXECUTIVE OFFICER**



With over 15 years of industry experience Andy has led as CEO since 2002. Andy graduated from Auburn University with a BS in accounting and holds an MBA from the University of Notre Dame. Andy frequently speaks on topics associated with the company, including land application and beneficial reuse, and serves on various boards.

---

#### **JEFFREY J. LEBLANC - PRESIDENT**



Jeff joined Denali Water Solutions LLC, as its President, when it acquired the key assets of WeCare Organics, LLC in 2016. Jeff is responsible for overseeing all aspects of sales, marketing and business development, as well as environmental and regulatory compliance. Jeff has played a key role in Denali's growth, as the industry leader in recycling of waste and residuals, and as a frequent guest speaker at industry conferences and seminars.

Jeff is focused on Denali's strategy as a full-service residual management company commissioned to bridge the gap between the farmer and the environmental community via the operations, management and distribution of residual based products, such as WeCare Compost®. In addition, Jeff has led the Company's vision to be the "landfill-alternative" and has steered the Company's advancement in managing source separated organics, such as green waste, food waste, food processing waste and biosolids.

---

#### **JIMMY MARDIS - CHIEF ENVIRONMENTAL OFFICER**



Jimmy is Denali's Chief Environmental Officer with over 25 years of experience in the Environmental Management food industry, with a focus on environmental. He also served for seven years as a pilot in the United States Air Force. Jimmy is a founding Board Member of the Illinois River Water Shed Partnership and Board Member for Shiloh Christian School. He lives and works in Rogers, AR with his wife Terri.

---

#### **ROB CURREY - CHIEF FINANCIAL OFFICER**



Rob Currey serves the company as its Chief Financial Officer. Rob's professional experience has been focused on the intersection of entrepreneurship, energy and resource use, and environmental stewardship. Rob's diverse background spans private equity investing, renewable-energy project development, corporate strategy at a large multinational company, and most recently, CFO roles at companies focused on delivering municipal wastewater systems and services. Rob received a graduate degree from Duke University with a Master of Environmental Management. Rob pursued his undergraduate studies at Princeton where he earned his Bachelor of Science degree in Engineering, and where he played varsity football.

---

#### KEVIN DUNLAP - CHIEF OPERATIONS OFFICER



Kevin is an experienced executive and leader in the water, wastewater, and environmental services industries with a demonstrated history of success. Kevin serves as Chief Operations Officer at Denali, and was previously CEO of Orège North America Inc. He has spent his entire 25-year career in various sales, operations, management, and executive leadership roles, including positions with American Water/EMC, US Filter, ITT Industries, Waterlink, and BCR Environmental. He has spent the past 15 years in management and executive level positions. Kevin has led municipal and industrial sales efforts in North America that have focused on both water and wastewater treatment equipment and services. He has also been responsible for profit and loss, and overseeing the day to day operations in several roles. He has focused the majority of his career on complex transactions involving capital sales of \$250,000 or more and long-term service agreements of 3 years or more. Kevin has a bachelor's degree in Environmental Studies from Baylor University.

---

#### GARY EMERY - VICE PRESIDENT, SALES & DEVELOPMENT



Gary is Vice President of Sales & Development for Denali, bringing a breadth of knowledge in the environmental and residuals management industry. He began his career in 1986 with an Arkansas-based environmental trucking company. Gary is a proven expert in the lagoon business as a key player for municipalities, solving liquid event problems. Gary has been with Denali since 2009 and was previously in management as an Operations Manager at Mid-America Environmental Solutions. Gary has managed operations, sales, dispatch, and environmental work throughout the South-Central region. His analysis of customer needs and determining operational resources are unmatched in the environmental sector.

---

#### JASON GOLDEN – GENERAL MANAGER, CENTRAL REGION



Jason joined Denali in 2006. He holds a degree from Arkansas Tech University and is a certified Residential and Commercial contractor in the state of Arkansas. Jason began with the company as the Asset Manager and became the Liquid Events Operations Manager in February 2009. Jason has responsibility for project development and growth in the municipal services sector. He oversees projects ranging from small lagoon cleanouts in farming communities to large multiyear sludge management project handling hundreds of thousands of tons per year for cities such as Dallas, Houston, Norman OK, as well as a large percentage of the Rio Grande Valley.

---

#### JASON R. RAMSEY - DIRECTOR OF SAFETY



Jason is the Director of Safety for Denali. He is responsible for safety programs and procedures, risk assessment, and compliance with USDOT, FMCSA, and OSHA regulations. Jason has 8 years of experience with Terra and Denali and has several years of experience in business development, safety, executive management, compliance, and was previously a State Trooper. He holds a bachelor's from the University of Arkansas. Jason also serves as a Board Member for the Arkansas State Police Foundation.



# JASON GOLDEN

**GENERAL MANAGER  
CENTRAL REGION**

## PERSONAL PROFILE

Jason joined Denali in 2006. He holds a degree from Arkansas Tech University and is a certified Residential and Commercial contractor in the state of Arkansas. Jason began with the company as the Asset Manager and became the Liquid Events Operations Manager in February 2009. Jason has responsibility for project development and growth in the municipal services sector. He oversees projects ranging from small lagoon cleanouts in farming communities to large multiyear sludge management project handling hundreds of thousands of tons per year for cities such as Dallas, Houston, Norman OK, as well as a large percentage of the Rio Grande Valley.

## WORK EXPERIENCE

### **General Manager, Central Region, Denali Water Solutions LLC 2006 – Current**

Manages all aspects of operations for the Central Region; including but not limited to project scheduling, management of personnel, recruitment and qualification of subcontractors, project progress reviews, payment submittals, safety program compliance, and employee corrective actions. Also supervises Project Superintendents, coordinates with various departments, and performs routine visits to ensure effective communication with the Customer.

## PROJECT EXPERIENCE

### **City of Houston Northeast & Southeast Water Purification Plant - Houston, Texas 2019 - Present**

Project: Dewatering and Land Application of Class B Sludge | Value: \$4,099,041 | Client Contact: Andrew Molly, P.E.

### **Johnson County, Kansas 2019 - Present**

Project: Biosolids Land Application | Value: \$500,000 | Client Contact: Dale Bauer

### **City Corporation - Russellville, Arkansas 2015 – Present**

Project: Installation of Bioset Class A System, Production, Transportation, and Beneficial Reuse of Class A Residuals  
Value: \$1,082,475 | Client Contact: Lance Bartlett

### **North Texas Municipal Water District - Wylie, Texas 2013 – Present**

Project: Dredge, Haul, & Reuse via Land Application | Value: \$6,100,000 | Client Contact: Travis Markham

## LICENSES

Licensed Arkansas General Contractor

## EDUCATION

### **Arkansas Tech University**

Bachelor of Science

## CONTACT INFORMATION

Cell: (479) 477-1512

Email: [jason.golden@denaliwater.com](mailto:jason.golden@denaliwater.com)

Website: [www.denaliwater.com](http://www.denaliwater.com)

Address: 3308 Bernice Avenue, Russellville, AR 72802

# DENALI WATER SOLUTIONS

**EXHIBIT C  
GENERAL CONDITIONS  
2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

**1.0     Contract Documents/Contract for Construction**

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the Contract Documents is to include all construction, labor, materials, tools, equipment and transportation necessary for the workmanlike construction of the project in accordance with the Contract Documents.

The Contract Documents shall consist of (but not necessarily limited to) the Agreement between the City and the Contractor (sometimes referred to herein as the "Agreement"), these General Conditions, the Special Conditions (including supplementary and other conditions), the Plans, the Specifications, all addenda issued prior to and all modifications issued after execution of the Contract (modifications consisting of written amendments to the Contract signed by both parties, change orders, written interpretations issued by the City Engineer, written orders for minor changes to the work issued by the City Engineer, and changes in the work), drawings and data which may be furnished by the Contractor and approved by the City, additional drawings which may be furnished by the Architect/ Engineer which the City Engineer deems necessary to make clear the intent of the Contract Documents (and, in particular, the Specifications), and the bidding documents. It is understood that the work shall be carried out and the project shall be constructed fully in accordance with the Contract Documents.

If there is any conflict or discrepancy between the Agreement between the City and Contractor and these General Conditions (or Special Conditions) or between the Agreement between City and Contractor and any other of the Contract Documents, the Agreement between City and Contractor shall prevail. If there is any discrepancy between the General Conditions and any other Contract Documents other than the Agreement between City and Contractor, the General Conditions shall prevail, unless such discrepancy is between the General Conditions and the Special Conditions, if any, in which case the Special Conditions shall prevail. The Contract Documents supersede all previous agreements and understandings between the parties, which previous agreements and understandings are of no further force and effect.

The Contract Documents as enumerated herein form the Contract for construction. The Contract may not be amended or modified except by a modification as hereinabove defined. These Contract Document do not, nor shall they be construed to, create any contractual relationship of any kind between the City and any subcontractor or remote tier subcontractor.

All limits stated in the Contract Documents are of the essence of the Contract. The Contract shall be construed in accordance with the law of the state of Kansas.

**2.0     Definitions.**

Whenever any word or expression defined herein, or pronoun used in its stead, occurs in these Contract Documents; it shall have and is mutually understood to have the meaning herein given. Work described in words which so applied have a well-know technical or trade meaning shall be held to refer to such recognized standards.

1. The "Bid" shall mean the offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the work to be performed (and the City reserves the right to reject any and all bids).
2. "Bidder" shall mean any individual: partnership, corporation, association or other entity submitting a bid for the work.
3. "Bidding Documents" shall mean all documents related to a bidder's submitting a bid, including, but not limited to, the advertisement for bids, if applicable, instructions to bidders, the bid form, other sample bidding and contract forms and the proposed Contract Documents, including any addenda issued prior to receipt of bids. At the City's option, bidder may be required to complete and submit a prequalification statement.
4. The "Bonds" shall mean the bid, performance, maintenance and statutory or labor and materials payment bonds, together with such other instruments of security as may be required by the Contract Documents.
5. A "Change Order" is a written order issued after the Agreement is executed by which the City, the City Engineer and the Contractor agree to construct additional items of work, to modify the Contract time, or, in lump sum contracts, to change the character and scope of work shown on the Contract plans, or as otherwise provided in the Contract Documents. Change Orders must be signed by the City and the Contractor to be binding.
6. "City" shall mean the City of Gardner, Kansas.
7. "City Engineer" shall mean the individual, firm or entity designated in the Contract Documents which has been employed by the City for the performance of professional engineering services in connection with the project; or shall mean the City if the City acts as its own Engineer.
8. "Contract" and "Contract Documents" shall have the meaning ascribed to them in paragraph 1, such terms sometimes being used interchangeably.
9. "Contract Price" shall be the amount identified in the Agreement between City and Contractor as the total amount due Contractor for total completion of the work as per the Contract Documents. Where the Contract provides that all or part of the work is to be unit price work the Contract Price shall initially be deemed to include for all unit price work an amount equal to the sum of the established unit prices for each separately identified item of unit price work multiplied by the estimated quantity of each item required for the work. It is understood and agreed that estimated quantities of items for unit price work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial Contract price. Determinations of actual quantities and classifications of unit price work shall be made by the City Engineer. Each unit price shall be deemed to include Contractor's overhead and profit for each separately identified item.
10. The "Contract Time" shall be the number of calendar days stated in the Contract Documents for the completion of the work or shall be a date certain if so designated in the Contract Documents.
11. "Contractor" shall mean the entity entering into the Contract for the performance of the work covered by this Contract, together with his duly authorized agents or legal representatives.
12. "Defective Work" shall mean work which is unsatisfactory, faulty or deficient or not in conformity with the Contract Documents. It shall also include work damaged prior to approval of final payment unless responsibility for such damage shall have been expressly assumed by the City at substantial completion.
13. "Effective Date of the Agreement" shall mean the date indicated in the Agreement on which it becomes effective, but, if no such date is indicated, it shall mean the date on which the Agreement is

signed and delivered by the City to the Contractor. For this purpose, delivery shall be accomplished by either hand-delivery to the Contractor or placing a copy in the mail, first class, postage pre-paid.

15. "Final Acceptance" shall mean the date when the City Engineer accepts in writing that the construction of the project is complete in accordance with the Contract Documents such that the entire project can be utilized for the purposes for which it is intended and Contractor is entitled to final payment.

16. "General Requirements" shall mean those provisions of the Specifications which apply to the entire work.

17. "Inspector" shall mean the engineering or technical inspector or inspectors duly authorized by the City Engineer or the City.

18. "Notice of Award" shall mean the written notice by the City to the apparent successful bidder stating that upon compliance with the conditions precedent enumerated therein, within the time specified, the City will sign and deliver the Agreement.

19. "Notice to Proceed" shall mean the written notice by the City to the Contractor fixing the date on which the Contract time is to commence and on which the Contractor shall start to perform its obligations under the Contract Documents. Without the prior express written consent of the City, Contractor shall do no work until the date set forth in the Notice to Proceed.

22. "Plans" or "The Plans" shall mean and include all drawings which may have been prepared by the City and/or the City Engineer on the City's behalf as a basis for bids, all drawings (other than shop drawings, see subpart 23.) submitted by the successful bidder with its bid or by the Contractor to the City, if and when approved by the City Engineer, and all drawings submitted by the City to the Contractor during the progress of the work, all of which show the character and scope of the work to be performed.

23. The "Shop Drawing(s)" shall mean all drawings, diagrams, illustrations, schedules and other data which are specifically prepared by the Contractor, a subcontractor, manufacturer, fabricator, supplier or distributor to illustrate some portion of the work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distributor and submitted by the Contractor to illustrate material or equipment for some portion of the work.

24. "The Specifications" shall mean those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction methods, standards and workmanship as applied to the work and certain administrative details applicable thereto. They may include, but not necessarily be limited to:

(1) design specifications, e.g. measurements, tolerances, materials, inspection requirements and other information relative to the work;

(2) performance specifications, e.g., performance characteristics required, if any;

(3) purchase description specifications, e.g. products or equipment required by manufacturer, trade name and/or type; provided, however, equivalent alternatives (including aesthetics, warranty and manufacturer reputation) may be substituted upon written request and written approval therefor by the City in accordance with paragraph GC-58.

(4) such other information deemed appropriate by the City for inclusion in the Specifications for the proper construction of the project.



25. "Subcontractor" shall mean an individual, firm or corporation having a direct contract with the Contractor or with another subcontractor for the performance of a part of the work.
26. "The Work or "The Project" (used interchangeably) shall mean the work to be done necessary to complete the construction required of the Contractor by the Contract Documents, and includes all construction, labor , materials, tools, equipment and transportation necessary to produce such construction in accordance with the Contract Documents.
27. "Underground Facilities" shall mean all pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish services or materials including, but not limited to, electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.
29. Whenever in these Contract Documents the words "as ordered," "as directed," "as required", "as permitted", "as allowed," or words or phrases of like import are used, it is understood that the order, direction, requirement, permission or allowance of the City and/or the City Engineer is intended.
30. Whenever any statement is made in the Contract Documents containing the expression "it is understood and agreed," or an expression of like import, such expression means the mutual understanding and agreement of the parties hereto.
31. The words "approved," "reasonable," "suitable," "acceptable," "properly," "satisfactory," or words of like effect in import , unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the City and/or the City Engineer.

### 3.0 General Administration of the Contract.

- (a) Unless otherwise stipulated, Contractor shall provide and initially pay for all work (including labor, transportation, tools, equipment, machinery, plant and appliances) necessary in producing the results called for by the Contract Documents.
- (b) Unless otherwise specified, all supplies, materials, equipment and other facilities are guaranteed to be new and all work shall be of good quality and workmanship and free from defects or fault. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of the work.
- (c) The Contractor shall be solely responsible for and have complete control and charge of construction means, methods, techniques, sequences and procedures, and for safety precautions and programs in connection with the work. The City shall not be responsible for nor have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the work.
- (d) The Contractor shall, in addition to the schedule required by the Contract Documents, give to the City Engineer full information in advance as to its plans for carrying on any part of the work. If at any time before the beginning or during the progress of the work, any part of the Contractor's plant or equipment or any of its methods of executing the work, appear to the City Engineer to be unsafe, inefficient or inadequate to ensure the required quality or rate of progress of the work, the City Engineer may order the Contractor to increase or improve its facilities or methods, and the Contractor shall promptly comply with such orders; but neither compliance with such orders nor failure of the City Engineer to issue such orders shall relieve the Contractor from its obligation to secure the degree of safety, the quality of work and the rate of progress required by the Contract.

(e) The approval by the City Engineer of any plan, schedule or method of work proposed by the Contractor shall not relieve the Contractor of any responsibility therefor, and such approval shall not be considered as an assumption by the City, or any officer, agent or employee thereof, of any risk or liability, and the Contractor shall have no claim under this Contract on account of the failure or inefficiency of any plan or method so approved. Such approval shall be considered and shall mean that the City Engineer has no objection to the Contractor's use or adoption, at the Contractor's own risk and responsibility, of the plan or method so proposed by the Contractor.

(f) Any plan or method of work suggested by the City Engineer or the City to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor, and the City Engineer and the City will assume no responsibility therefor.

#### 4.0 Schedules.

##### 4.1 Progress Schedule.

Within ten (10) days after the Effective Date of this Agreement and prior to commencing the Work, Contractor shall submit to City an estimated progress schedule indicating the starting and completion dates of the various phases of the Work, including the projected cost of each phase. The cost projection may serve as the basis for Progress Payments during the Work.

##### 4.2 Adjusting Progress Schedule.

Contractor shall submit to the Engineer any adjustments to the progress schedule that reflect the impact of any unanticipated developments; such adjustments shall conform to the progress schedule and shall comply with all provisions of this Agreement.

##### 4.3 Finalizing Schedules.

At least ten (10) days prior to submission of the first Application for Payment, a conference attended by Contractor and appropriate Subcontractors shall be held for the purpose of finalizing the progress schedule. The finalized progress schedule will be reviewed by the Engineer to ensure an orderly progression of the Work to completion within the Contract Time, but such review will neither impose on City responsibility for the progress or scheduling of the work nor relieve Contractor from full responsibility therefore. The finalized schedule of Shop Drawing submissions will be reviewed by the Engineer to ensure a workable schedule for processing the submissions.

#### 5.0 Easements and Rights-of-Way.

If applicable, permanent and temporary construction easements and rights-of-way will be provided by City as shown on the Plans. Contractor shall confine the Work to the easements provided and shall carefully note where buildings, structures, or other obstructions will limit required working space. In the event that easements and rights-of-way are not available or are not secured, or if entry to property is denied by court order, injunction, litigation or any other reason, Contractor shall cease operations in such area and confine the Work to other areas approved by City. In the event of a delay arising from the securing of easements and rights-of-way, Contractor shall have no claim against City for damages arising from such delay but may request an extension of time pursuant to the terms of this Agreement.

When required, City shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way for access thereto, and such other lands which are designated for the use of Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained by City. If Contractor believes that any delay in City's furnishing of these lands, rights-of-way or easements entitles Contractor to an extension of the Contract Time, Contractor may make a claim for such extension. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment, not provided for in the Contract Documents. Contractor shall assume full responsibility for and indemnify City against any and all claims arising from the use of such additional lands and access.

6.0 Cutting, Patching, and Digging.

(a) Contractor shall do all cutting, fitting or patching of its work that may be required to make its several parts come together properly and fit it to receive or be received by work of others shown upon or reasonably implied by the Contract Documents.

(b) Contractor shall not endanger any property of City or any other individual or entity, or the work by cutting, digging or otherwise and shall not cut or alter the work others except with the written consent of City.

(c) Contractor shall assume responsibility for the patching or repairs, by the proper trade, of damages caused by work under this Contract.

(d) Contractor shall comply with all local ordinances dealing with cutting, patching and digging and shall obtain all necessary permits.

7.0 Use of Premises.

7.1 Throughout the duration of the Work, Contractor shall keep the Work site free from accumulations of waste materials, rubbish, and other debris resulting from the Work. At the completion of the Work, Contractor shall remove all waste material, rubbish, and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials and shall leave the Project site clean and ready for its intended use by City. Contractor shall restore to their original or better than original condition those portions of the Project site not designated for alteration by the Contract Documents.

Contractor shall confine the Work to the right-of-way limits and easements provided for the Project. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities, storage of materials, and equipment, staging area and field office. Contractor shall assume full responsibility for and indemnify City against any and all claims arising from the use of such additional lands and access.

7.2 Contractor shall not load nor permit any structure, streets or highways to be loaded with a weight that exceeds applicable load limits.

7.3 If applicable, a laydown area will be provided at the site and shall be selected by City. If required, Contractor will furnish its own dunnage and weather protection.

7.4 No City equipment will be taken out of service or put into service without approval of the Engineer.

8.0 Concealed Conditions.

8.1 City will furnish to Contractor information in its possession concerning conditions below ground at the project site. Such information is furnished to Contractor only to make complete disclosure and for no other purpose. By furnishing such information, City does not represent, warrant or guarantee the accuracy of such information, either in whole or in part, nor shall City be liable for such information.

- 8.2 Contractor understands that City does not warrant or guarantee the accuracy of the various materials and information, including but not limited to soil tests, bore reports, utility locations and other such data, and as-builts in the case of renovation of, or addition to, existing facilities. Contractor warrants that it has examined the Project site and conducted such tests and examinations as it deems necessary to perform the Work pursuant to the terms of this Agreement.
- 8.3 Should concealed or unknown conditions that differ materially from conditions ordinarily encountered in the area and generally recognized as inherent in the Work of the character provided for in this Agreement be encountered, the Contract Price may be equitably adjusted by Change Order upon written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to any possible City responsibility, Contractor shall give City written notice of, and an opportunity to observe, the concealed or unknown condition. Failure of Contractor to make the written notice and claim as required herein shall constitute a waiver by Contractor of any claim arising out of, or related to such concealed or unknown condition.
- 9.0 Reference Points, Permanent Markers and Staking.  
City shall provide engineering surveys for Work for the purpose of establishing reference points which, in the judgment of the Engineer, are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for all staking of the Work, shall protect and preserve the established reference points, and shall make no changes or relocations without prior written approval of City. All staking shall be performed by a licensed surveyor. Contractor shall report to Engineer whenever any reference point is lost, destroyed, or requires relocation because of changes in grades or locations, and Contractor shall be responsible for the cost of replacement or relocation of such reference points by the Engineer, including the cost of materials, surveyors and assistance as necessary. Permanent section markers shall be replaced using recognized Kansas surveying procedures.
- 10.0 Labor, Materials and Equipment.
- 10.1 No Work shall be done between the hours of 7:00 p.m. and 7:00 a.m. nor on Saturdays, Sundays or legal holidays, without the written approval or permission of the Engineer, except such Work as may be necessary for the proper care, maintenance and protection of the Work already performed or of equipment, or in the case of an emergency. Requests for approval of such Work must be submitted to the Engineer two (2) working days prior to the requested start of such Work. Night Work may be established by Contractor, as a regular procedure, with the written permission of the Engineer, such permission however, may be revoked at any time by the Engineer.
- 10.2 Unless otherwise specified in the Contract Documents, Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities, and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the Work.
- 10.3 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by City, Contractor shall furnish evidence (including reports or required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable supplier, unless otherwise specifically provided in the Contract Documents.

11.0 Substitute of Equivalent Items.

- 11.1 "Approved Equal," where permitted by the Contract Documents or otherwise made feasible by market conditions, shall be approved as follows:
- a. Contractor shall notify the Engineer in writing if it elects to use an approved equal specifically named in the Contract Documents;
  - b. If Contractor desires to use an "equal" not specifically named in the Contract Documents, it must first inform the Engineer and receive written approval for such substitutions. The Engineer has no obligation to approve such request and is not responsible for any delay or cost incurred caused by Contractor's request.
- 11.2 Contractor shall be solely responsible for design risks, delays and other claims arising out of any Approved Equal. The Engineer will be allowed a reasonable time within which to evaluate each proposed substitute. The Engineer will be the sole reviewer, and no substitute "equal" will be ordered, installed, or utilized without Engineer's prior written review. City may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute "equal". Whether or not the Engineer reviews a proposed substitute "equal," Contractor shall reimburse City for the charges of the Engineer for evaluating each proposed substitute.

12.0 Safety and Protection; Notification of Property Owners/Occupants.

- 12.1 Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
- a. All employees on the Project site and other persons who may come in contact with the Work;
  - b. All Work and all materials or equipment to be incorporated in the Work, whether in storage on or off the site;
  - c. Other property at the Project site or adjacent thereto, including but not limited to, trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of the Work.
- 12.2 Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, or as City may determine reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the Work covered by this Agreement.
- 12.3 Contractor is fully responsible for a safety program and all safety methods and procedures, whether or not City reviewed and/or accepted such safety program.
- 12.4 City may require Contractor to notify nearby property owners or occupants of nearby structures of certain construction activities. When required, Contractor shall provide a written notice, delivered at least 24 hours in advance of such activity, to affected nearby property owners or occupants of nearby structures describing the activity and the proposed activity schedule. Delivery of the notice may be accomplished by affixing the notice to the front entrance of the structure or by mailing the notice to the property owner or occupant of the structure 3 days prior to commencing the activity.

13.0 Emergencies.

In emergencies affecting the safety or protection of persons, the Work, or property at the Project site or adjacent thereto, Contractor, without special instruction or authorization from City, is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give City prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused by such emergencies. If the Engineer determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a written Amendment or Change Order will be issued to document the consequences of the changes or variations. If City observes a situation in which it believes Contractor has not taken sufficient precaution for the safety of the public or the protection of

the Project, City may direct Contractor to take immediate action and Contractor shall immediately respond.

14.0 Shop Drawings and Samples.

Contractor shall submit with such promptness as to cause no delay in its own Work or in the Work of any Subcontractor, or other contractor, three (3) copies of all shop, fabrication, assembly, foundation and other drawings and schedules required by this Agreement. City shall review, respond to, accept or reject such submissions within a reasonable time after receipt. Contractor shall make such revisions as deemed necessary. On Final Acceptance, City shall be furnished with one copy of each drawing as finally approved, as well as a copy of preliminary or revised drawings which are approved as submitted. No Work shall be performed in connection with the fabrication or manufacture of material or equipment shown by any drawing thereof, nor shall any accessory, appurtenance or device not fabricated or manufactured by Contractor or its Subcontractors be purchased, until the drawing or drawings therefore have been approved as stipulated, except at Contractor's own risk and responsibility. Review for compliance and/or acceptance by City of drawings submitted by Contractor shall not relieve Contractor from responsibility for errors of any sort in Shop Drawings.

15.0 Relations with Other Contractors.

- 15.1 Contractor shall cooperate with all other contractors or workers who may be performing Work on behalf of City or any other entity on any Work in the vicinity of the Work to be done under this Agreement, and it shall so conduct its operations as to interfere to the least possible extent with the Work of such contractors or workers. Contractor shall be responsible for any injury or damages, including damages for delay, that may be sustained by other contractors, workers or their work because of any fault or negligence on Contractor's part, and shall at its own expense repair or pay for such injury or damage. Any difference or conflict which may arise between Contractor and other contractors, in regard to their Work, shall be adjusted and determined by the Engineer. If the Work of Contractor is delayed or damaged because of any acts or omissions of any other contractor or contractors, Contractor shall have no claim against City on that account; provided, however, City may in its discretion, grant an extension of the Contract Time.
- 15.2 When two or more contracts are being executed at one time in such manner that Work on one Contract may interfere with that of another, the Engineer shall decide which contractor shall cease work and which shall continue, whether the Work on both contracts shall progress at the same time, and in what manner the work is to proceed.
- 15.3 When the territory of one contract is the necessary or convenient means of access for the transportation or movement of men/women, materials or appliances required for the execution of another contract, such privileges of access or any other responsible privilege may be granted by City to Contractor so desiring to the extent which may be reasonably necessary.
- 15.4 In the event that Contractor is performing Work at a Project site on a Project involving City and one or more other private or governmental entities, which have their own contractors on site as well, Contractor shall advise City when it anticipates that there may be interference with the Work of any such other contractor. City shall, to the best of its ability, with input from Contractor as to coordination of the Work, seek to schedule work of the various contractors so as to avoid as much inconvenience and delay as possible; provided, however, that in the event Contractor experiences a delay as a result of the presence of other such contractors, Contractor shall not be entitled to additional compensation or damages for delay, rather, Contractor's only recourse shall be an extension of the Contract Time to be determined by the Engineer.



16.0 City's Presence During Construction.

City reserves the right to have persons present on the Project site during construction, but the presence of such persons does not relieve Contractor of its responsibility to comply with the Contract Documents.

17.0 Tests and Observations.

Contractor shall give Engineer timely notice of readiness of the Work for all required observations, tests or reviews. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) to specifically be tested, or if the Specifications require any testing or if such testing is necessary to verify compliance with the Contract Documents then Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish Engineer with the required certificates of inspection, testing or approval. Contractor shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with City's review of fabrication material, or equipment proposed to be incorporated in the Work. Neither observations by Engineer or inspections, tests or approvals by others shall relieve Contractor from his obligations to perform the Work in accordance with the Contract Documents.

18.0 Inspection of the Work.

(a) City Engineer shall at all times have access to the Work for the observation and inspection thereof wherever it is in preparation or progress, and Contractor shall provide proper facilities for such inspection. The Contractor shall furnish all reasonable aid and assistance required for any such inspection.

(b) All work must be inspected, tested, or approved and the Contractor shall give the City Engineer timely notice of its readiness for such inspection, testing or approval and the date fixed for such inspection, testing or approval if the inspection, testing or approval is by an authority other than City Engineer. If any work should be covered up which is required by the above to be inspected, tested or approved and which, by virtue of being so covered up, is not susceptible to being properly inspected, tested or approved, Contractor shall, if requested by City Engineer, uncover such work and at Contractor's expense bear the cost of uncovering such work and redoing same after inspection, testing or approval and redoing such other work damaged as a result of having to uncover and redo same.

(c) City Engineer reserves the right to inspect any and all work before it is covered up; and, accordingly, Contractor must notify City Engineer before covering any work.

City Engineer shall be given a reasonable time to make its inspection. Contractor shall not cover any work prior to City Engineer having a reasonable time to inspect. If work to be covered does not conform to the Contract Documents, City Engineer can withhold its consent to covering up work until such work is made to conform at Contractor's expense.

(d) If any labor, supplies, materials or equipment are found not to be in accordance with the Contract Documents, Contractor shall at his own expense bear the cost of uncovering such labor, supplies, materials or equipment, the cost of removing same, as well as the cost of undoing and redoing the work and other work damaged by such nonconforming labor, supplies, materials or equipment.

(e) The Contractor shall comply with the directions and instructions of the City Engineer.

(f) The City, the City Engineer and all designated inspectors shall be free at all times to perform their duties, including the observation and inspection of the work, and intimidation or attempted intimidation of any one of them by the Contractor or by any

of its employees shall be sufficient reason, if the City so desires, to terminate the contract.

(g) Any inspection, by whomsoever conducted, shall not relieve the Contractor from any obligation to perform the Work strictly in accordance with the plans and specifications, and any of the Work not so constructed shall be removed and made good by the Contractor at its own expense.

19.0 Uncovering Work.

If any Work that is included in the Contract (including the work of others) that is to be observed or tested is covered without written concurrence of Engineer, it must, if requested by Engineer, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Engineer timely notice of Contractor's intention to cover such work and Engineer has not acted with reasonable promptness in response to such notice.

20.0 Street Signs and Traffic Aids; Designation and Maintenance of Haul Roads.

20.1 Contractor shall be responsible for all preexisting traffic control devices at the project site, including installation, maintenance, removal and storage of such devices. All temporary and permanent traffic control devices supplied by Contractor shall comply with and be installed in accordance with the Manual on Uniform Traffic Control Devices (MUTCD), current edition as revised, and the Traffic Control Devices Handbook both by the U.S. Department of Transportation and the Federal Highway Administration.

20.2 City may require Contractor to designate and maintain one or more "Haul Roads" for the purpose of transporting materials and debris to and from the Project site. When required, Contractor shall maintain the designated haul road(s) to the level of maintenance and appearance present before commencement of the Work, as documented by photographs or videotape.

21.0 Permits.

Contractor shall obtain and pay for all construction permits and licenses unless otherwise stated. City shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening Bids, or if there are no Bids on the Effective Date of this Agreement. Contractor shall pay all charges of utility service companies for connections to the Work.

22.0 Acceptance of Defective Work. If, instead of requiring correction or removal and replacement of Defective Work as provided for in the Agreement and Contract Documents, City prefers to accept the Defective Work, City may do so. Contractor shall bear all direct, indirect and consequential costs attributable to City's evaluation of and determination to accept such Defective Work (such costs to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals). If any such review occurs prior to City's approval of Final Payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work and City shall be entitled to an appropriate decrease in the Contract Price; and, if the parties are unable to agree as to the amount thereof, City may make a claim therefore. If the review occurs after such recommendation, an appropriate amount will be paid by Contractor to City.

23.0 Defects in Contract Documents. If Contractor has reasonable cause such that it should, in the exercise of ordinary care of someone in its position, know that any errors, omissions, discrepancies or inconsistencies (hereinafter "defects") appear in the Contract Documents, including but not limited to, the Plans, Specifications and other documents or the work, Contractor shall notify the City Engineer in writing of such defects. Contractor shall remedy any such defects whether or not disclosed to the City Engineer without any increase in the cost of the work. The Contract Documents shall be appended to all contracts between the Contractor and any subcontractor or any more remote tier subcontractor, and such subcontractors and remote tier subcontractors shall, likewise, notify the Contractor in writing

of any defects therein, and it shall be the obligation of the Contractor to remedy same as if Contractor had discovered such defects itself. The Contractor will not be permitted to take advantage of any such defect.

24.0 Federal Lobbying Activities. 31 U.S.C.S. Section 1352 requires all subgrantees, contractors, subcontractors and consultants who receive federal funds via the City to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan or cooperative agreements. In addition, contract applicants, recipients and subrecipients must file a form disclosing any expenditures they make for lobbying out of non-federal funds during the contract period. Necessary forms are available from the City Engineer and must be returned to the City with other contract documents. It is the responsibility of the Contractor to obtain executed forms from any Subcontractors who fall within the provisions of the Code and to provide the City with the same.

25.0 Changes in the Work.

(a) Change Orders. City, without invalidating the Contract, may by Change Order direct changes in the Work which may result in an addition to or deduction from the Contract price and/or changes in the Contract time. All Change Orders shall be executed under the provisions of the original Contract Documents. If the Change Order consists of a modification to the Contract Price, the value of such change shall be determined as per paragraph (e) below. Except for work done as a result of an emergency endangering life or property, no work resulting in an additional pay item shall be performed unless pursuant to the provision of a Change Order.

(b) Quantity Variations. Where changes in the work involve a change in the quantity of any bid item, the Contract Price shall be revised by extension of the quantities and unit price of all bid items so changed subject to written approval of the City Engineer.

(c) Field Orders. City Engineer may order minor changes in the Work through field orders, which in no specific, concrete or substantial way increase or decrease the Work; and such minor changes in the Work shall not involve an addition or deduction from the Contract Price.

(d) From time to time the City Engineer may also issue written orders to Contractor for needed clarifications, modifications or corrections. Should a difference of opinion arise as to whether the order constitutes extra work for which additional compensation is due, and the City insists on its performance, the Contractor shall proceed with the work after making a written request for a Change Order, and it shall keep an accurate account of the actual field cost thereof as provided for in (e)(3) below. The Contractor will thereby preserve the right to submit a claim therefor. The failure of Contractor to make a written request for a Change Order shall operate as a waiver of any such claim.

(e) The value of any change in the Work which results in an addition/deletion to the Contract Price shall be determined in one or more of the following ways, at the option of City:

- (1) By agreed lump sum.
- (2) By unit prices named in the Contract or subsequently agreed upon.
- (3) By actual, documented field cost (time and material) plus fifteen percent (15%) and shall include a "Not to Exceed" figure.

In order to arrive at the value for any change, Contractor shall credit City with its projected cost(s), including overhead and fee for any work which was previously included but which has been excluded by any such change.

(f) No change in the Work shall entail additional time unless the City Engineer determines that additional time is required and specifically so provides in the Change Order. No change in the Work shall entitle the Contractor to delay damages.

(g) Where extra work is performed under (e)(3) above, the term "actual field cost" of such extra work is hereby defined to be and shall include:

- (1) The cost of all workers, such as foremen, timekeepers, mechanics, and laborers, for the time actually employed in the performance of the said extra work;
- (2) All materials and supplies;
- (3) Trucks and rental on machinery and equipment for the time actually employed or used in the performance of said extra work;
- (4) Any transportation charges necessarily incurred in connection with said equipment authorized by the City Engineer for use on said work and similar operating expenses;
- (5) All incidental expenses incurred as a direct result of such extra work, including payroll taxes and a ratable proportion of premiums on construction bonds and, where the premiums therefor are based on payroll costs, public liability and property damage, worker's compensation, and other insurance required by the Contract; provided, however, Contractor must enumerate and justify to City's satisfaction any such claimed incidental expenses; and provided, further, that without in any way limiting City's right to challenge any individual costs claimed by Contractor, incidental costs shall not include:
  - (a) Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in Contractor's principal or a branch office for general administration of the work unless specifically agreed to by City - all of which are to be considered administrative costs covered by the Contractor's overhead and profit.
  - (b) Expenses of Contractor's principal and branch offices other than Contractor's office at this site.
  - (c) Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the work and charges against Contractor for delinquent payments.
  - (d) Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.
  - (e) Other overhead of general expense costs of any kind and the costs of any item not specifically and expressly agreed to by City.

The City Engineer may direct the form in which accounts of the actual field cost shall be kept and may also specify in writing, before the work commences, the method of doing the work and the type and kind of machinery and equipment, if required, which shall be used in the performance of extra work under (e) (3) above. In the event that machinery and heavy construction equipment shall be required for such extra work, the authorization and basis of payment for the use thereof shall be stipulated in the written extra work order.

The fifteen percent (15%) of the actual field cost to be paid to the Contractor shall cover, and be full compensation for, the Contractor's profit, overhead, general superintendence, field office expense and all other elements of cost not embraced within the "actual field cost" as herein defined.

(h) In the event that unit prices are provided for in the Contract Documents as to all or a part of the work, if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of work proposed is substantially inequitable to either the City or the Contractor, the unit prices shall be reevaluated and adjusted in accordance with the following:

(1) If the total cost of a particular item of Unit Price Work amounts to twenty (20) percent or more of the Contract Price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than thirty-three (33) percent from the estimated quantity of such item indicated in the Contract; and

(2) If there is no corresponding adjustment with respect to any other item of work; and

(3) If Contractor has incurred additional expense as a result thereof; or

(4) If City believes that the quantity variation entitles it to an adjustment in the unit price and, the parties are unable to agree as to effect of any such variations in the quantity of Unit Price Work performed;

then either City or Contractor may request the City Engineer to make an adjustment in the Contract Price.

(i) No claim for extra work of any kind will be allowed except as provided herein. If extra work orders are given in accordance with the provisions of this Contract, such work shall be considered a part hereof and subject to each and all of the terms and requirements of this Contract.

(j) Contractor shall be responsible for notifying his surety(ies) of any modifications to the Contract Price or Time, and said surety(ies) shall not seek discharge as a result of any failure on Contractor's part to notify surety(ies).

26.0 Contractor's Risk. The Contractor shall assume full responsibility for the Work and shall bear any loss and repair any damage at his/her own cost occasioned by neglect, accident, vandalism or natural cause, whether foreseen or unforeseen, during the progress of the Work and until the Work is completed and accepted by the City.

27.0 Sanitary Regulations and Water. The operations of the Contractor shall be in full conformity with all of the rules and regulations of boards and bodies having jurisdiction with respect to sanitation. The Contractor shall supply safe and sufficient drinking water to all of its employees. The Contractor shall obey and enforce all sanitary regulations and orders, and shall take precautions against infectious diseases and the spread of same. All water used in the course of the Work shall be hauled in or purchased from the local Water Company's distribution system at the Contractor's own cost and expense.

28.0 Protection of Property/Liability. Without in any manner limiting Contractor's responsibilities as provided elsewhere in the Contract Documents, the Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers and utilities, both above the ground and underground facilities, along, beneath, above, across or near the site or sites of the work being performed under this Contract, or which are in any manner affected by the prosecution of the Work or the transportation of men/women or materials in connections therewith. Barriers shall be kept placed at all times to protect persons other than those engaged on or about the Work from accident, and the Contractor will be held responsible for all accidents to persons or property resulting from the acts of Contractor or its employees.

The Contractor shall give reasonable notice to the affected owner or owners when any such property is liable to injury or damage through the performance of the Work and shall make all necessary arrangements with such owner or owners relative to the removal and replacement or protection of such property and/or utilities.

The Contractor shall satisfactorily shore, support and protect any and all structures and all excavations, pipes, sewers, drains, conduits and other facilities and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any additional time nor damages or extra compensation on account of any postponement, interference or delay caused by any such structures and facilities being on the line of the Work, whether they are shown on the plans or not, specifically including, but not limited to, damages due to delay in utility relocation.



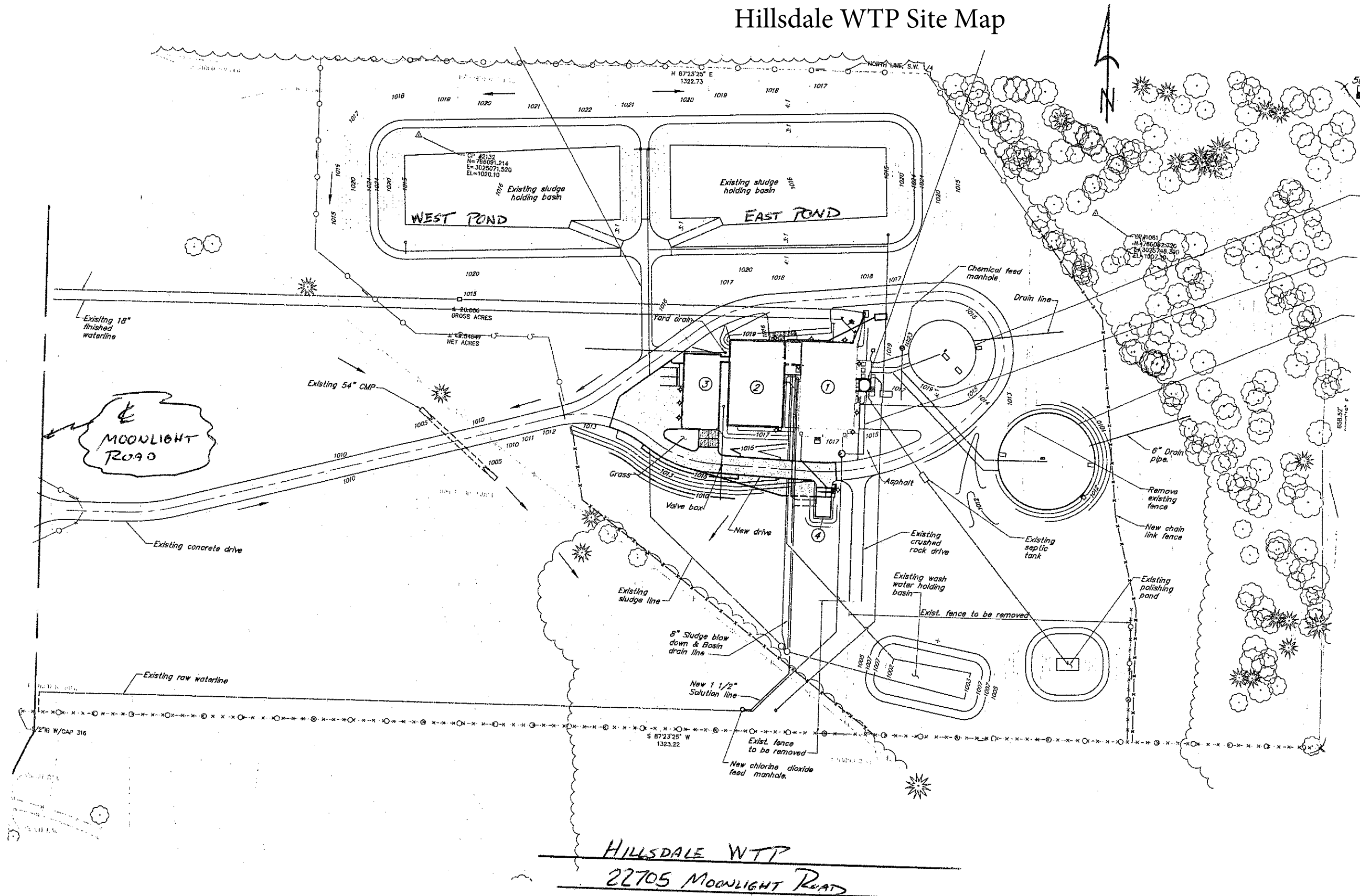
**APPENDIX D  
SPECIAL CONDITIONS  
2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

**GENERAL ITEMS**

- SC-1 Per Article 4.0 of the Contract Agreement, there are **30 calendar days** provided to complete the project.
- SC-2 Restoration of street surface, parkway/lawn areas and all other areas abutting the construction, shall be subsidiary to other items in the project.
- SC-3 Contractor will also be responsible for repair or reconstruction of any utilities cut or damaged during construction. Restored parkway/lawn areas shall be seeded. The pond base shall not be sodded, nor seeded.
- SC-4 Traffic Control:
- SC-4.1 The Contractor shall supply flag person, signs, etc. to control traffic through the work zone if and when deemed necessary by the Project Representative. All traffic control shall conform to Chapter VI of the M.U.T.C.D. Access for local traffic shall be maintained at all times, and shall be included in the lump sum price bid for "Traffic Control".
- SC-5 All construction traffic of trucks and equipment access to the plant entrance shall only be to the North along Moonlight Road. No entering or exiting the plant with construction activity to the South will be allowed.
- SC-6 Contractor shall schedule and coordinate pond cleanout activities with Hillsdale WTP Staff not to interfere with existing construction activities being performed by CAS.
- SC-7 Construction shall be in accordance with the City of Gardner Technical Specifications for Public Improvement Projects, latest edition.
- SC-8 Approximately 4,300 CY of material to be removed from the West Pond shown on map included as Attachment A. These are approximate numbers – bidder shall be responsible for determining the volume to be removed and bid accordingly. There will be no increase in lump sum payment if volume removed exceeds the estimate.
- Estimated quantity based on the following calculations:
- Center Rectangle Area: 214'(length) x 75'(width) x 7'(depth) = 112,350 cu. ft.
- Side Slop Area: 30'(length) x 30'(width) x 3.5' (avg. depth) = 3,150 cu. ft.
- $112,350 \text{ ft}^3 + 3,150 \text{ ft}^3 / 27 \sim 4,300 \text{ cu. yds.}$
- SC-9 The City of Gardner NPDES permit is included as Attachment B with Land Application of Residuals referenced in Section F, beginning on page 4 of 10. Contractor shall provide report to City complying with KDHE and USEPA regulations for land application of residuals.

# ATTACHMENT - A

## Hillsdale WTP Site Map



NOTES:  
1. See dwg. C2 for plant layout details not shown

**ATTACHEMNT B**  
**City of Gardner, KS 2020 NPDES Permit**

Division of Environment  
Curtis State Office Building  
1000 SW Jackson St., Suite 400  
Topeka, KS 66612-1367



Phone: 785-296-1535  
Fax: 785-559-4264  
[www.kdheks.gov](http://www.kdheks.gov)

Lee A. Norman, M.D., Secretary

Laura Kelly, Governor

September 29, 2020

City of Gardner  
Gonzalo Garcia  
120 Main Street  
Gardner, KS 66030

RE: Kansas Water Pollution Control  
Permit No. I-MC60-PO02  
Hillsdale Water Treatment Plant

Dear Permittee:

You have fulfilled all the filing requirements for a Kansas Water Pollution Control Permit and Authorization to Discharge under the National Pollutant Discharge Elimination System (NPDES). We are pleased to forward your new permit. While it is permissible to make as many copies as needed for monitoring and reporting purposes, you need to retain the original permit for your files.

We suggest you carefully read the terms and conditions of your permit and understand these terms and conditions are enforceable under both State and Federal law.

Please note the reporting paragraph on page 2 of your permit. If required, all discharge monitoring reports are to be processed by the eDMR software program. If KDHE has not contacted you concerning the use of the eDMR software program, please contact Debbie Mendenhall at 785.296.5561 or [Deborah.Mendenhall@ks.gov](mailto:Deborah.Mendenhall@ks.gov). If this requirement applies to your facility, please share this permit with your certified operator and laboratory.

Any additional reports shall be submitted to the Kansas Department of Health and Environment, Bureau of Water-TSS, 1000 SW Jackson St., Suite 420, Topeka, Kansas 66612-1367.

If you have any questions concerning this permit, contact Michael Beezhold at (785) 296-5513.

Sincerely,

Thomas C Stiles  
Director, Bureau of Water

pc: NE - District  
PJ- Permit File

**KANSAS WATER POLLUTION CONTROL PERMIT AND  
AUTHORIZATION TO DISCHARGE UNDER  
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

Pursuant to the Provisions of Kansas Statutes Annotated 65-164 and 65-165, the Federal Water Pollution Control Act as amended, (33 U.S.C. 1251 et seq; the "Act"),

Owner: City of Gardner

Owner's Address: 120 Main Street, Gardner, Kansas 66030

Facility Name: Hillsdale Water Treatment Plant

Facility Address: 22705 Moonlight Drive, Spring Hill, Kansas 66083

Outfall Legal: SW¼, Section 30, Township 15S, Range 23E of Miami County, Kansas

Feature Name	Latitude	Longitude
Facility Center	38.71568	-94.90584
Outfall	38.71617	-94.90630

Receiving Stream: Marais des Cygnes River via Hillsdale Lake via Branch of Little Bull Creek via Unnamed Tributary

Basin: Marais des Cygnes River Basin

is authorized to discharge from the water treatment facility described herein, in accordance with effluent limitations and monitoring requirements as set forth herein.

This permit is effective October 1, 2020 supersedes the previously issued Water Pollution Control permit I-MC60-PO02 and expires September 30, 2025.

**FACILITY DESCRIPTION:** This is an existing water treatment plant with a design flow of 4.0 MGD that treats water from Hillsdale Reservoir. The treatment process is being expanded to a capacity of 6.0 MGD. The expansion includes a new carbon contact basin which will replace the existing carbon contact basins. Following the carbon contact basin, the flow will be split to the existing WTP treatment train or to the new treatment train. The new treatment train consists of a solid contact clarifier for flocculation and sedimentation, dual-media gravity filtration and transfer pumping facilities.

Raw water from Hillsdale Reservoir is mixed with sodium permanganate at the intake. Powdered Activated Carbon (PAC) will be fed at carbon contact basin ahead of clarification. Primary treatment is used to remove turbidity and organics prior to filtration. An upflow solids contact clarifier (SCC) provides mixing, flocculation and sedimentation. Clarification residuals will be discharged to the lagoons for on-site storage. Dual media gravity filters will be used for the filtration. Filter to waste and backwash waste will be air gapped within the filter building and will be discharged to the lagoons. Primary disinfection will be achieved with free chlorine and secondary disinfection will be achieved with chloramines. The existing chlorine contact basin will be used for primary disinfection. An additional 1 MG clearwell is proposed for additional finished water storage; the new clearwell will operated in parallel to the exiting 1 MG clearwell.



Secretary, Kansas Department of Health and Environment

September 28, 2020  
Date

**FACILITY DESCRIPTION (Contd.):**

The water treatment plant has two existing lagoons that collect clarification residuals, filter backwash waste and filter to waste streams. Domestic waste will continue to be discharged to the existing septic system. Clarification residuals, backwash residuals and filter to waste will flow by gravity to the lagoons. Pulsating clarifier blowdown and basin drain, will flow to the existing sludge pump station and then to the lagoons. Outfall 001A1 and 001Q1 are same outfall.

**A. EFFLUENT LIMITS AND MONITORING REQUIREMENTS**

The permittee is authorized to discharge from outfall(s) with serial number(s) as specified in this permit. Such discharges shall be controlled, limited, and monitored by the permittee as specified. There shall be no discharge of floating solids or visible foam in other than trace amounts.

The monitoring reports shall be submitted monthly on or before the 28th day of the following month. In the event no discharge occurs, written notification is still required.

Outfall/Monitoring Point # Effluent Parameter(s) Units	<b><u>EFFLUENT LIMITATIONS</u></b> <b><u>Final Upon Issuance</u></b>	<b><u>MONITORING</u></b> <b><u>REQUIREMENTS</u></b>	
	Daily Maximum	Measurement Frequency	Sample Type
<b><u>Outfall 001A1 (EDMR code: EFF001A1) – Wastewater Treatment Lagoon Effluent</u></b>			
Flow	Monitor	Weekly	Flowmeter/Totalizer
Total Residual Chlorine- µg/l	21*	Monthly	Grab
Total Suspended Solids -mg/l	100	Monthly	Grab
pH - Standard Units	Between 6.0 - 9.0	Monthly	Grab

**Outfall 001Q1 (EDMR code: EFF001Q1) – Wastewater Treatment Lagoon Effluent**

Nitrate & Nitrite as N – mg/l	Monitor	Quarterly	Grab
Total Kjeldahl Nitrogen (TKN) as N–mg/l	Monitor	Quarterly	Grab
Total Nitrogen as N (NO3+NO2 +TKN)	Monitor	Quarterly	Calculated
Total Phosphorus as P – mg/l	Monitor	Quarterly	Grab

\* Permittee shall conduct testing for total chlorine residual according to the methods prescribed in 40 CFR Part 136. The current acceptable quantification level for total residual chlorine in wastewater is 100 micrograms/L. Test results in excess of the 100 ug/l quantification level are violations of the permit limit.

**B. STANDARD CONDITIONS**

In addition to the specified conditions stated herein, the permittee shall comply with the attached Standard Conditions dated March 1, 2018.

**C. SCHEDULE OF COMPLIANCE**

None



**D. ADDITIONAL INFORMATION**

EPA has promulgated a final rule requiring regulated entities to report DMR data electronically. Also, KAR 28-16-63 requires permittees to report NPDES data in a form required by KDHE. KDHE has developed electronic reporting tools to assist permittees in complying with the EPA electronic reporting rule and KAR 28-61-63. Unless a waiver has been approved by KDHE, permittees are required to submit reports electronically.

**E. SUPPLEMENTAL CONDITIONS**

1. This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2)(C) and (D), 304(b)(2) and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:
  - a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit, or
  - b. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

2. **Changes in Discharges of Toxic Substances**  
The permittee shall notify KDHE as soon as it knows or has reason to believe:
  - a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:
    - (1) One hundred micrograms per liter (100 µg/l);
    - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
    - (3) Five times the maximum concentration value reported for that pollutant in the permit application.
  - b. That any activity has occurred or will occur which result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following notification levels:
    - (1) Five hundred micrograms per liter (500 µg/l);
    - (2) One milligram per liter (1 mg/l) for antimony;
    - (3) Ten times the maximum concentration value reported for that pollutant in the permit application.
3. Land application of the residuals is authorized by this permit. Please see Section F for the land application requirements. Land application plan shall be developed and submitted to KDHE-BOW for approval before the land application of the wastewater residuals.

**F. LAND APPLICATION OF THE RESIDUALS**

**1. GENERAL WASTEWATER RESIDUALS LAND APPLICATION REQUIREMENTS:**

Land application of wastewater residuals is acceptable in areas approved by KDHE during favorable weather conditions. The land application shall be conducted in accordance with generally accepted agricultural practices, at agronomic application rates, and in such a manner as to prevent nuisance conditions from developing. The following conditions shall apply to the land application of wastewater residuals:

- a. Application shall be controlled to prevent runoff to surface waters.
- b. Wastewater residuals shall not be applied onto crop land used to produce crops for direct human consumption.
- c. Wastewater residuals shall not be applied within a 100 foot radius of the facility's water supply well or property line, within 200 feet of an off-site water well, within a 500 feet radius from a habitable structure or on an area that floods more frequently than once in ten years.
- d. Accurate records of the wastewater residuals land application operation shall be maintained and made available to KDHE upon request.
- e. Wastewater residuals shall not be land applied on saturated, frozen, or snow-covered ground.

**2. WASTEWATER RESIDUALS MONITORING:**

A representative sample of wastewater residuals to be land applied shall be analyzed for parameters specified as follows to determine the application rates:

pH (standard units)	Total Phosphorus (mg/kg)
Total Kjeldahl Nitrogen (mg/kg)	Nitrate-Nitrogen (mg/kg)
Ammonium-Nitrogen (mg/kg)	Total Potassium (mg/kg)
Percent solids	Chloride (mg/kg)
Phosphate as P <sub>2</sub> O <sub>5</sub> (lb/ton)	Potash as K <sub>2</sub> O (lb/ton)
Total metals (mg/kg)	
(Arsenic, Cadmium, Copper, Lead, Mercury, Molybdenum, Nickel, Selenium, and Zinc)	

Phosphorus as "P" using the Bray P-1 or Mehlich 3 analysis method shall be limited to 200 mg/kg in the top 6 inches of soil if the slope of the land application site is less than 5%. If the slope of the land application site is greater the 5%, the maximum phosphorus as "P" soil concentration using the Bray P-1 or Mehlich 3 analysis method shall be 150 mg/kg.

**3. SOIL MONITORING:**

Prior to land application of wastewater residuals, the following soil samples shall be taken annually (usually following harvest) before annual wastewater residuals application begins. Samples must be tested at a laboratory skilled in the testing of soil samples for agronomic purposes and interpretation of soil sample test results. Permittee should consult the county extension office for guidance on sampling, testing and suitable laboratories. These laboratories need not be KDHE-certified for these tests.

- f. At least ten - 6-inch-deep core samples from each land application site; composite all cores from that site into one sample. (If the land application site is less than 10 acres, a minimum of 1 core per acre). The top core composite sample shall be analyzed for the following parameters:

pH (standard units)  
Exchangeable Ammonium as Nitrogen (ppm and lb/acre)  
Nitrate-Nitrogen (ppm and lb/acre)  
Total Nitrogen (ppm and lb/acre)  
Melich-3 or Bray P-1 Extractable Phosphorus (ppm)  
Extractable Potassium (ppm)  
Extract Electrical Conductivity(mmhos)  
Exchangeable Sodium as percent of cations (%)  
Sodium Adsorption Ratio (unitless)  
Soluble Chloride (ppm)  
Total metals (ppm and lb/acre)  
(Arsenic, Cadmium, Copper, Lead, Mercury, Molybdenum, Nickel, Selenium, and Zinc)

- g. From the same core holes, take a second sample (6 inch to 24-inch-deep or as deep as you can go but not more than 24 inches) and composite these cores into one sample. The bottom core composite sample shall be analyzed for nitrate nitrogen (ppm and lb/acre).

4. ANNUAL WASTEWATER RESIDUALS LAND APPLICATION REPORT:

By March 1 of each year, permittee shall submit a wastewater residuals land application annual report. The report shall address information from the previous calendar year wastewater residuals land application and a plan to land apply the wastewater residuals for the upcoming calendar year. At a minimum the report shall include the following:

- a. A topographical map including the location of the land application sites, number of acres available at each land application site, location of any water wells within 500 feet of the land application sites. If the land application sites are less than 100 feet from the property line or less than 500 feet from any residences, waivers must be obtained from the owners to allow land application on these areas.
- b. The quantity, type, and application rate of wastewater residuals applied to each land application site during the previous year.
- c. A calculation of the quantity of the individual wastewater residual parameters, listed in Paragraph (2) above in lbs/acre and total pounds applied during the previous year for each application site. The quantities need to be expressed in both a wet and dry wastewater residuals basis.
- d. Test results on the wastewater residuals expected to be applied in the next calendar year and soil sampling results at the planned land application site(s) (pursuant to the above Supplemental Conditions).
- e. A wastewater residuals land application plan for the upcoming calendar year based on results of the soil monitoring for each proposed land application site, the projected quantity, quality and type of wastewater residuals, the crops to be grown on each application site, and the projected crop yields.
- f. The Land Application Plan and Annual Report shall include a certificate of review by either a Certified Crop Advisor or a person, acceptable to KDHE, who is knowledgeable through education and training in crop moisture and nutrient requirements i.e., crop science or agronomy. The land application review shall address the rate and quantities of wastewater residuals applied; the application rate of nutrients from the wastewater residuals and other nutrient sources including commercial fertilizers applied; salinity issues; and presence or accumulation of other pollutants of agronomic concern. The land application review shall be

based on the cropping practice that year and the measured land application site soil characteristics. The review and certification shall indicate whether the wastewater residuals and any commercial fertilizer added to the sites were applied in conformance with the requirements of this permit, agronomic application rates, and generally accepted agricultural practices. At land application sites where the requirements of this permit were violated, agronomic application rates were exceeded, or generally accepted agricultural practices were not followed, the review certification shall recommend appropriate corrective actions. The review also needs to address the Land Application Plan for the upcoming calendar year. The permittee shall provide to KDHE the qualifications of the person conducting the annual land application review and certification unless provided in previous land application report submittals.

**If no land application occurs during a calendar year, no sampling or testing of the wastewater residuals or soil is required. The annual report is still required and is to indicate "no land application conducted during the calendar year" on the report.**



**STANDARD CONDITIONS FOR  
KANSAS WATER POLLUTION CONTROL AND  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS**

1. Representative Sampling and Discharge Monitoring Report Submittals:
  - A. Samples and measurements taken as required herein shall be representative of the quality and quantity of the monitored discharge. Test results shall be recorded for the day the samples were taken. If sampling for a parameter was conducted across more than one calendar day, the test results may be recorded for the day sampling was started or ended. All samples shall be taken at the locations designated in this permit, and unless specified, at the outfall/monitoring location(s) before the wastewater joins or is diluted by any other water or substance.
  - B. Monitoring results shall be recorded and reported on forms acceptable to the Division and submitted no later than the 28th day of the month following the completed reporting period. Signed and certified copies of other reports, required herein, prepared in accordance with KAR 28-16-59, may be faxed to 785.296.0086, e-mailed as scanned attachments to [dmr4kdhe@kdheks.gov](mailto:dmr4kdhe@kdheks.gov), or sent by U.S. mail to:

Kansas Department of Health & Environment  
Bureau of Water-Technical Services Section  
1000 SW Jackson Street, Suite 420  
Topeka, KS 66612-1367

2. Definitions:
  - A. Unless otherwise specifically defined in this permit, the following definitions apply:
    1. The "Daily Maximum" is the total discharge by weight or average concentration, measurement taken, or value calculated during a 24-hour period. The parameter, pH, is limited as a range between and including the values shown.
    2. The "Weekly Average" is the arithmetic mean of the value of test results from samples collected, measurements taken or values calculated during four monitoring periods in each month consisting of calendar days 1-7, 8-14, 15-21 and 22 through the end of the month.
    3. The "Monthly Average", other than for E. coli bacteria, is the arithmetic mean of the value of test results from samples collected, measurements taken or values calculated during a calendar month. The monthly average is determined by the summation of all calculated values or measured test results divided by the number of calculated values or test results reported for that parameter during the calendar month. The monthly average for E. coli bacteria is the geometric average of the value of the test results from samples collected in a calendar month. The geometric average can be calculated by using a scientific calculator to multiply all the E. coli test results together and then taking the nth root of the product where n is the number of test results. Non-detect values shall be reported using the less than symbol (<) and the minimum detection or reportable value. To calculate average values, non-detects shall be defaulted to zero (or one for geometric averages). Greater than values shall be reported using the greater than symbol (>) and the reported value. To calculate average values, the greater than reported value shall be used in the averaging calculation.
  - B. A "grab sample" is an individual sample collected in less than 15 minutes. A "composite sample" is a combination of individual samples in which the volume of each individual sample is proportional to the flow, or the sample frequency is proportioned to the flow rate over the sample period, or the sample frequency is proportional to time.
  - C. The terms "Director", "Division", and "Department" refer to the Director, Division of Environment, Kansas Department of Health and Environment, respectively.
  - D. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of an in-plant diversion. Severe property damage does not mean economic loss caused by delays in production.
  - E. "Bypass" means the intentional diversion of waste streams from any portion of the treatment facility.

3. **Schedule of Compliance:** No later than 14 calendar days following each date identified in the "Schedule of Compliance," the permittee shall submit via mail, e-mail or fax per paragraph 1.B above, either a report of progress or, in the case of specific action being required by identified dates, a written notice of compliance or noncompliance. In the latter case, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements, or, if there are no more scheduled requirements, when such noncompliance will be corrected.
4. **Test Procedures:** All analyses required by this permit shall conform to the requirements of 40 CFR Part 136, unless otherwise specified, and shall be conducted in a laboratory accredited by the Department. For each measurement or sample, the permittee shall record the exact place, date, and time of measuring/sampling; the date and time of the analyses, the analytical techniques or methods used, minimum detection or reportable level, and the individual(s) who performed the measuring/sampling and analysis and, the results. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved procedures, the results shall be included in the Discharge Monitoring Report form required in 1.B. above. Such increased frequencies shall also be indicated.
5. **Change in Discharge:** All discharges authorized herein shall be consistent with the permit requirements. The discharge of any pollutant not authorized by this permit or of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of this permit. Any anticipated facility expansions, production or flow increases, or production or wastewater treatment system modifications which result in a new, different, or increased discharge of pollutants shall be reported to the Division at least one hundred eighty (180) days before such change.
6. **Facilities Operation:** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the requirements of this permit and Kansas and Federal law. Proper operation and maintenance also include adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the requirements of this permit. The permittee shall take all necessary steps to minimize or prevent any adverse impact to human health or the environment resulting from noncompliance with any effluent limits specified in this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge. When necessary to maintain compliance with the permit requirements, the permittee shall halt or reduce those activities under its control which generate wastewater routed to this facility.
7. **Incidents:**

"Collection System Diversion" means the diversion of wastewater from any portion of the collection system.

"In-Plant Diversion" means routing the wastewater around any treatment unit in the treatment facility through which it would normally flow.

"In-Plant Flow Through" means an incident in which the wastewater continues to be routed through the equipment even though full treatment is not being accomplished because of equipment failure for any reason.

"Spill" means any discharge of wastewater, sludge or other materials from the treatment facility other than effluent or as more specifically described by other "Incidents" terms.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance or anticipated noncompliance with permit effluent limits because of factors beyond the reasonable control of the permittee, as described by 40 C.F.R. 122.41(n).
8. **Diversion not Exceeding Limits:** The permittee may allow any diversion to occur which does not cause effluent limits to be exceeded, but only if it also is for essential maintenance to assure efficient operation. Such diversions are not subject to the Incident Reporting requirements shown below.
9. **Prohibition of an In-Plant Diversion:** Any in-plant diversion from facilities necessary to maintain compliance with this permit is prohibited, except: (a) where the in-plant diversion was unavoidable to prevent loss of life, personal injury, or severe property damage; (b) where there were no feasible alternatives to the in-plant diversion, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime and (c) the permittee submitted a notice as required in the Incident Reporting paragraph below. The Director may approve an anticipated in-plant diversion, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above.



10. Incident Reporting: The permittee shall report any unanticipated collection system diversion, in-plant diversion, in-plant flow through occurrences, spill, upset or any violation of a permitted daily maximum limit within 24 hours from the time the permittee became aware of the incident. A written submission shall be provided within 5 days of the time the permittee became aware of the incident. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. An Incident Report form is available at [www.kdheks.gov/water/tech.html](http://www.kdheks.gov/water/tech.html).

For an anticipated incident or any planned changes or activities in the permitted facility that may result in noncompliance with the permit requirements, the permittee shall submit written notice, if possible, at least ten days before the date of the event.

For other noncompliance, the above information shall be provided with the next Discharge Monitoring Report.

11. Removed Substances: Solids, sludges, filter backwash, or other pollutants removed in the course of treatment of water shall be utilized or disposed of in a manner acceptable to the Division.
12. Power Failures: The permittee shall provide an alternative power source sufficient to operate the wastewater control facilities or otherwise control pollution and all discharges upon the loss of the primary source of power to the wastewater control facilities.
13. Right of Entry: The permittee shall allow authorized representatives of the Division of Environment or the Environmental Protection Agency upon the presentation of credentials, to enter upon the permittee's premises where an effluent source is located, or in which are located any records required by this permit, and at reasonable times, to have access to and copy any records required by this permit, to inspect any facilities, monitoring equipment or monitoring method required in this permit, and to sample any influents to, discharges from or materials in the wastewater facilities.
14. Transfer of Ownership: The permittee shall notify the succeeding owner or controlling person of the existence of this permit by certified letter, a copy of which shall be forwarded to the Division. The succeeding owner shall secure a new permit. This permit is not transferable to any person except after notice and approval by the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.
15. Records Retention: Unless otherwise specified, all records and information resulting from the monitoring activities required by this permit, including all records of analyses and calibration and maintenance of instruments and recordings from continuous monitoring instruments, shall be retained for a minimum of 3 years, or longer if requested by the Division. Biosolids/sludge records and information are required to be kept for a minimum of 5 years, or longer if requested by the Division. Groundwater monitoring data, including background samples results, shall be kept for the life of the facility regardless of ownership.
16. Availability of Records: Except for data determined to be confidential under 33 USC Section 1318, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. Effluent data shall not be considered confidential. Knowingly making any false statement on any such report or tampering with equipment to falsify data may result in the imposition of criminal penalties as provided for in 33 USC Section 1319 and KSA 65-170c.
17. Permit Modifications and Terminations: As provided by KAR 28-16-62, after notice and opportunity for a hearing, this permit may be modified, suspended or revoked or terminated in whole or in part during its term for cause as provided, but not limited to those set forth in KAR 28-16-62 and KAR 28-16-28b through g. The permittee shall furnish to the Director, within a reasonable amount of time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish upon request, copies of all records required to be kept by this permit. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
18. Toxic Pollutants: Notwithstanding paragraph 17 above, if a toxic effluent standard or prohibition (including any schedule of compliance specified at such effluent standards) is established under 33 USC Section 1317(a) for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition. Nothing in this permit relieves the permittee from complying with federal toxic effluent standards as promulgated pursuant to 33 USC Section 1317.

19. Administrative, Civil and Criminal Liability: The permittee shall comply with all requirements of this permit. Except as authorized in paragraph 9 above, nothing in this permit shall be construed to relieve the permittee from administrative, civil or criminal penalties for noncompliance as provided for in KSA 65-161 et seq., and 33 USC Section 1319.
20. Oil and Hazardous Substance Liability: Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under 33 USC Section 1321 or KSA 65-164 et seq. A municipal permittee shall promptly notify the Division by telephone upon discovering crude oil or any petroleum derivative in its sewer system or wastewater treatment facilities.
21. Industrial Users: A municipal permittee shall require any industrial user of the treatment works to comply with 33 USC Section 1317, 1318 and any industrial user of storm sewers to comply with 33 USC Section 1308.
22. Property Rights: The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringements of or violation of federal, state or local laws or regulations.
23. Operator Certification: The permittee shall, if required, ensure the wastewater facilities are under the supervision of an operator certified by the Department. If the permittee does not have a certified operator or loses its certified operator, appropriate steps shall be taken to obtain a certified operator as required by KAR 28-16-30 et seq.
24. Severability: The provisions of this permit are severable. If any provision of this permit or any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected thereby.
25. Removal from Service: The permittee shall inform the Division at least three months before a pumping station, treatment unit, or any other part of the treatment facility permitted by this permit is to be removed from service and shall make arrangements acceptable to the Division to decommission the facility or part of the facility being removed from service such that the public health and waters of the state are protected.
26. Duty to Reapply: A permit holder wishing to continue any activity regulated by this permit after the expiration date, must apply for a new permit at least 180 days prior to expiration of the permit.
27. Publicly owned treatment works (POTWs): All POTWs shall provide adequate notice to the Director of the following per 40 CFR 122.42(b):
  - A. Any new introduction of pollutants into the POTW from a non-domestic source which would be subject to section 301 or 306 of the CWA ; and
  - B. Any substantial change in the volume or character of pollutants being introduced into a POTW by a non-domestic source.
  - C. For purposes of this paragraph, adequate notice shall mean within 30 days of the POTW being aware of the introduction of pollutants and shall include information on the quality and quantity of influent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
28. POTW regulated pretreatment program requirements: For POTWs with an approved pretreatment program, the POTW shall:
  - A. Identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under section 307(b) of CWA and 40 CFR part 403.
  - B. Provide to KDHE and EPA a written technical evaluation of the need to develop new local limits or revise existing local limits under 40 CFR 403.5(c)(1).
29. This permit may be reopened and modified if KDHE and/or EPA determines the permittee shall develop and approved pretreatment program that complies with 40 CFR, Part 403.

**EXHIBIT E**  
**MEASUREMENT AND PAYMENT**  
**2021 Hillsdale WTP Waste and Residuals Pond Cleanout**

**MP-1 GENERAL**

- A. It is the intention of this section of the specifications to set forth the method of measurement and payment for that part of the work on the Contract Documents that will be directly paid for at the price bid per unit of measure.
- B. All the work to be performed under this contract will be paid for at the lump sum stated in the proposal of the accepted BIDDER. Lump sum shall constitute full compensation for all labor, materials, tools, equipment and incidentals required to complete the work, as described in accordance with the Contract Documents. Any material, equipment or operation not specifically mentioned, however, required for proper completion of the work shall be considered to be incidental to the lump sum price.
- C. Quantities listed in the bid form are estimated and are not guaranteed. Estimated quantities indicated only for convenience in comparing bids. Payment will be made for actual quantities constructed or installed, be they more or less than those listed unless otherwise indicated; said quantities being measured and determined as follows.
- D. No adjustments shall be made to unit prices listed on the bid form, for the measured and determined actual quantities constructed or installed, be they more or less than the estimated quantity.
- E. The CONTRACTOR shall provide temporary walks, fencing, barricades or other protective measures as necessary to ensure the safety of the public traversing the construction site. Equipment storage areas and material stockpiles shall be located on sites provided by the CONTRACTOR with due regard to location, appearance, and hazard potential to the traveling public.
- F. Temporary construction entrance, temporary surfacing or any interim construction necessary shall be maintained by the CONTRACTOR at all times and shall be constructed of a material approved by the City Engineer. This work shall be subsidiary to other bid items.

## COUNCIL ACTION FORM

## COMMITTEE RECOMMENDATION NO. 1

**MEETING DATE:** MARCH 15, 2021

**STAFF CONTACT:** DAVID KNOPIK, COMMUNITY DEVELOPMENT DIRECTOR

---

**Agenda Item:** Consider adopting an ordinance incorporating proposed Land Development Code amendments

**Strategic Priority:** Economic Development

**Department:** Community Development

---

### **Planning Commission Recommendation:**

After conducting a Public Hearing at its February 22, 2021 meeting and reviewing a series of proposed amendments to Title 17 the Land Development Code for the City of Gardner, the Planning Commission recommends that the Governing Body approve the proposed amendments as outlined in the attached materials and adopt an ordinance incorporating such proposed amendments.

### **Staff Recommendation:**

Staff recommends approval of the proposed amendments as provided in the attached materials and supports the Planning Commission recommendation.

### **Background/Description of Item:**

Periodically the Governing Body or Planning Commission or staff, through the activities associated with the administration of Title 17 Land Development Code (LDC) of the Gardner Municipal Code, may identify the need to make text amendments to the LDC. At such time that amendments are proposed, the process outlined in Section 17.03.110 of the Gardner Municipal Code is prescribed.

A summary of the proposed amendments by chapter is provided below.

#### **Chapter 17.01 General Provisions**

The proposed language changes in this section are related to the zoning of annexed land. The current language, which states that the zoning classification of property changes from the prior jurisdiction's zoning district to a corresponding City zoning district when the land is annexed into the City, is in conflict with State of Kansas court rulings and findings. The proposed changes will bring the LDC in line with court rulings and findings.

#### **Chapter 17.02 Definitions**

Current and past staff, through previous review of the LDC, identified the need for clarification of several existing definitions and the addition of a few new definitions to assist with the administration and interpretation of the regulations.

#### **Chapter 17.03 Applications and Procedures**

Last September, the Planning Commission heard a case related to a mobile home community. As part of the case, there were two issues related to the LDC that were identified. The first issue was related to the length of time a conditional use permit shall be valid. The proposed language

changes to Section 17.03.050 are intended to address and clarify the establishment of a period of time associated with a conditional use permit and the allowance for an extension of such permit.

Additionally, in regard to the administrative adjustment process, there has been some confusion related to the use of this terminology and when the Director is authorized to make administrative adjustments or when the Planning Commission is authorized to do so. The suggested changes clarify the role of the Director and the Planning Commission, and provide additional flexibility to both in regard to the consideration of administrative adjustments.

#### Chapter 17.05 Zoning Districts and Use Standards

The second issue previously identified in relation to a mobile home community was the requirement of a conditional use permit for a manufactured / mobile / micro home community within the only zoning district which allows such use. The RM-P Residential Manufactured and Mobile Home Planned District is a special district that addresses a variety of development standards per Section 17.06.020. The proposed adjustment would change such use from a conditional use to a permitted use in the RM-P district subject to the standards in Section 17.06.020.

The second set of proposed changes has to do with the placement of temporary offices at construction and development sites. Recently, staff received an inquiry regarding the placement of such an office on a residential development site. Such an office would be considered a temporary use and as such would not be allowed in a residential zoning district. The potential changes would allow the placement of temporary construction / sales offices on residential construction and development sites in residential districts within the parameters outlined.

#### **Actions:**

Per Section 17.03.110 of the *Land Development Code*, the Governing Body may:

*When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefor, the Governing Body may:*

- a. Adopt. Adopt such recommendation by ordinance,*
- b. Override. Override the Planning Commission's recommendation by at least a two-thirds vote of the membership of the Governing Body, or*
- c. Return. Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendation, the Governing Body by a simple majority thereof may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.*

#### **Financial Impact:**

None

**Attachments included:**

- Ordinance No. 2695
- Planning Commission staff report
- February 22, 2021 draft Planning Commission minutes excerpt

**Suggested Motion:**

Adopt Ordinance No. 2695, an ordinance amending the Land Development Code of the City of Gardner, Kansas by amending sections of Title 17 of the Gardner Municipal Code



## ORDINANCE NO. 2695

### **AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF GARDNER, KANSAS BY AMENDING SECTIONS OF TITLE 17 OF THE GARDNER MUNICIPAL CODE.**

WHEREAS, the City of Gardner, Kansas initiated changes to Sections of Title 17 entitled "Land Development Code", by action of City Staff as presented to the Planning Commission on the 26th day of January, 2021 and action of the Planning Commission on the 22nd day of February, 2021; and

WHEREAS, a public hearing on the herein changes to the Land Development Code was properly noticed and held before the Planning Commission of the City of Gardner, Kansas, on the 22nd day of February, 2021; and

WHEREAS, said Planning Commission has recommended that the herein amendments to the Land Development Code of the City of Gardner, Kansas be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

**SECTION ONE:** Chapter 17.01.030(C) is hereby amended to read as follows:

#### **17.01.030(C) - Establishment of Districts – Annexed Land**

##### **C. Annexed Land**

1. **Zoning Classification at the Time of Annexation.** Upon annexation, the City shall initiate a petition to rezone an annexed property to the zoning district most similar to the zoning classification in effect under the prior jurisdiction. Alternatively, an annexed property owner may request that the aforementioned city initiated rezoning petition be deferred and may initiate an application to rezone an annexed property to an appropriate district(s) associated with a development plan / plat for the property.
2. **Zoning Classification and Regulations After Annexation**
  - a. Any owner of land within the area annexed may apply for rezoning under the laws and procedures of the City, and as granted by KSA 12-756 and 12-757, after the effective date of annexation.
  - b. If property annexed before the effective date of this Title is rezoned to a City zoning district, all zoning requirements and regulations of the City take effect, and the regulations of the prior zoning jurisdiction terminate, within the annexed area.
3. **Enforcement.** The City may secure civil remedies for violations of prior zoning jurisdiction regulations to the same extent that it may secure civil remedies for violations of this ordinance pursuant to GMC 17.01.050.

**SECTION TWO:** Chapter 17.01.060(E) is hereby amended to read as follows:

#### **17.01.060 – Nonconformances – Nonconformances Created by Annexation**

**E. Nonconformances Created by Annexation.** All nonconformances created as a result of the application of the corresponding zoning district at the time of annexation (per GMC 17.01.030 (C) (1)) shall be allowed to remain in place. Improvements to property, in support of the use of the property at the time of annexation, will be reviewed on a case-by-case basis and may allow for:

1. An expansion of the nonconforming structure(s) or site condition(s) to which the improvement / investment is not greater than 50 percent of the appraised value of the property or applicable structure.
2. An expansion of the nonconforming structure(s) or site condition(s) that is in closer conformance, than the condition that existed at the time of annexation, with the applicable zoning district requirements but not necessarily full compliance, to which the improvement / investment is not greater than 50 percent of the appraised value of the property or applicable structure.

Such case-by-case determinations shall be made by the Director with appeals of such determinations going to the Planning Commission.

**SECTION THREE:** Chapter 17.01.060(F) is hereby amended to read as follows:

**17.01.060 – Nonconformances – Nonconforming Lots**

- F. Nonconforming Lots.** Any lots platted legally prior to the adoption or amendment of this Code, but which could not be platted under the current requirements of this Code, may continue to exist, provided they comply with all other applicable standards. Any difficulties meeting these standards caused by the nonconformance of the lot may be used as criteria in granting any discretionary relief to these standards. A nonconforming lot shall not be used, conveyed, transferred, subdivided, nor have its boundaries altered in any manner, except for government purpose, that would compound or further increase the nonconforming characteristics of the lot. Such nonconforming lots may be combined, per the applicable plat procedure, provided this merger does not increase the degree of any nonconformity, and any such newly combined lot that does not meet current lot standards will continue to be a legal nonconforming lot even though it was not platted legally prior to the adoption of this Code.

**SECTION FOUR:** Chapter 17.01.060(G) is hereby amended to read as follows:

**17.01.060 – Nonconformances – Signs**

- G. Signs.** Existing signs which were lawful at the time, but made nonconforming by adoption or amendment to this Code, shall be legal, provided they are maintained in good condition. Nothing in this Code shall prohibit the ordinary maintenance repair of a nonconforming sign or replacement of a broken part of a nonconforming sign. Replacement of copy, content or message may be considered ordinary maintenance.
1. A legal nonconforming sign shall not be:
    - a. Changed to another type or shape of nonconforming sign;
    - b. Physically changed to expand or extend the size of the sign or to replace significant materials of the sign or sign structure;
    - c. Continued after more than six months of abandonment or vacancy of the property;
    - d. Reestablished after any removal of the sign that is not part of ordinary maintenance; or
    - e. Continued if a substantial part of the property or building is redeveloped, including more than 25 percent of the property or building by area or by value.
  2. Nonconforming signs that are destroyed or damaged by 50 percent or more of their value shall not be rebuilt or repaired except in conformance with this Code.

**SECTION FIVE:** Chapter 17.01.060(H) is hereby added to read as follows:

**17.01.060 – Nonconformances – Burden of Proof**

- H. Burden of Proof.** The burden shall be on the applicant to establish entitlement to continuation of nonconforming situations or completion of nonconforming projects

**SECTION SIX:** Chapter 17.02.010 is hereby amended to add or amend the following definitions:

**17.02.010 – Definitions**

**A**

*Accessible* in reference to a lot, means one or both of the following: 1) having a driveway (or an area for a driveway) that provides vehicular access to an existing street; and/or 2) having a public or private access easement that provides vehicular access, or shared vehicular access, to an existing street while meeting all applicable access location and design standards.

*ADA Ready* refers to a building that is more easily retrofitted for future ADA compliance including features such as: 1) Zero level entry, 2) Bathrooms large enough to achieve ADA compliance, and 3) Hallways and doorways that are framed for ADA compliant widths.

## B

*Block* means a piece or parcel of land entirely surrounded by public highways / streets, other than alleys, or bounded by the presence or a combination of other features such as parks / open spaces, cemeteries, railroad or other utility rights-of-way, exterior boundaries of a subdivision or other existing development, shorelines, and/or corporate boundaries. In cases where the platting is incomplete or disconnected, or the development pattern proposed as the result of curvilinear streets, cul-de-sacs or other features creates a scenario which does not meet the definition of a block, the Director shall determine the outline of the block.

## L

*Landscape area* means an area that is designed and maintained for landscape plantings. Landscape areas may include nonplant landscape features and be surfaced with mulch or rock; however, areas without living plants shall not be considered landscape areas. For the purposes of the Land Development Code xeriscaping features and direct pedestrian walks from front entries to public sidewalks are considered to be part of the landscape area.

## P

*Parking block* means a grouping of parking spaces with edges that are defined by landscape areas. Parking blocks may include a variety of different configurations of parking spaces (per Table 9-6 GMC 17.09.040 (B)).

## S

*Small Format Home(s)* generally refers to housing types which are smaller than 1,500 square feet. Such homes may be traditional stick-built, manufactured, mobile, modular, or tiny houses, but do not include recreational vehicles or travel trailers.

*Street Tree* means a tree placed in the public right-of-way along the street which may be in front or behind a sidewalk, or within a designated landscape tract or easement adjacent to a public roadway. Typical location is identified as Frontage (A) in Figure 8-1 of GMC section 17.08.030.

## T

*Tree, Street* see *Street Tree* above.

The remainder of the definitions in Chapter 17.02.010 shall remain unchanged.

**SECTION SEVEN:** Chapter 17.03.050(A) is hereby amended to read as follows:

### **17.03.050 - Conditional Use Permit - Applicability**

- A. **Applicability.** A conditional use permit provides flexibility for different uses within a zoning district and allows the potential for additional uses under certain conditions. Due to the varying design and operational characteristics of the use or due to conditions in the area where the use is proposed, these uses are not generally appropriate in that district, but may be considered through a case-specific review to determine the compatibility in a specific context and location.

Conditional use permits may be initiated by the owners or authorized agents of any property affected. In addition to the general requirements in Table 3-1 and GMC 17.03.010, the following requirements are specific to conditional use applications.

**SECTION EIGHT:** Chapter 17.03.050(C) is hereby amended to read as follows:

### **17.03.050 - Conditional Use Permit – Effect of Decision**

- C. **Effect of Decision.** Approval of a conditional use permit by the Governing Body shall authorize the applicant to apply for a building permit and other applicable permits, and establish the conditional use. Approval shall be valid for a period of time determined through the review process and the Governing Body provided, that approvals for communication facilities for wireless services shall be for a term of

not less than 10 years. Any application not acted upon according to the approval and conditions within 1 year of approval shall be void; although the Governing Body may grant a one-time one year extension if justified. Any amendment to a conditional use permit shall require the same process as the original approval.

**SECTION NINE:** Chapter 17.03.080(A) is hereby amended to read as follows:

**17.03.80 - Administrative Adjustments – Applicability**

**A. Applicability.** The administrative adjustment process is intended to provide flexibility for application of specific standards to sites where it is clear that an alternative approach with minor or de minimis modifications of the standards will equally or better meet the purpose, intent or design objectives of these regulations. Specifically it applies to:

1. Altering a building standard, such as setback, area or height.
2. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension.
3. Deviating from any building design standard, where an alternative “equal or better” standard is proposed by the applicant.
4. In any of these cases the adjustment cannot create conflicts with any other applicable standard.

**SECTION TEN:** Chapter 17.03.080(B) is hereby amended to read as follows:

**17.03.080 - Administrative Adjustments – Specific Procedures and Allowances**

**B. Specific Procedures and Allowances.** Applications for administrative adjustments shall follow the same procedures required for a site plan and design review or administrative site plan, whichever is applicable. In administrative site plan cases where the Director is the decision authority, administrative adjustments may be granted by the Director. In the case of site plan and design review where the Planning Commission is the decision authority, administrative adjustments may be granted only by the Planning Commission.

1. Administrative Site Plan cases:
  - a. Altering a building standard, such as setback, area or height by up to 10% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 3 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 3) standard respectively.
  - b. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by up to 10% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 3 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 3) standard respectively.
  - c. Deviating from any building design standard, where an alternative “equal or better” standard is proposed by the applicant.
2. Site Plan and Design Review cases:
  - a. Altering a building standard, such as setback, area or height by up to 20% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 6 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 6) standard respectively.
  - b. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by up to 20% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 6 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 6) standard respectively.
  - c. Deviating from any building design standard, where an alternative “equal or better” standard is proposed by the applicant.

**SECTION ELEVEN:** Chapter 17.05.030(A), Table 5-2 relating to Manufactured/Mobile/ Micro Home Community and Temporary Use is hereby amended to read as follows:

**17.05.030 General Use Standards – Permitted Uses**

**Table 5-2: Use Table**

	Residential Districts								Nonresidential Districts							
	A	RE	R-1	R-2	R-3	R-4	R-5	RM-P	C-O	CO-A	C-1	C-2	C-3	M-1	M-2	REC
RESIDENTIAL DWELLINGS																
Manufactured/Mobile/Micro Home Community								P*								
Temporary Use (See Section 17.05.050 Y)	T*								T*	T*	T*	T*	T*	T*	T*	T*

The remainder of Chapter 17.05.030(A), Table 5-2 shall remain unchanged.

**SECTION TWELVE:** Chapter 17.05.050(Y) is hereby amended to read as follows:

**17.05.050 - Specific Use Standards – Temporary Use**

**Y. Temporary Use.** Where temporary are permitted (as indicated in Table 5-2), all of the following standards shall be met:

1. A temporary use meeting the standards of this section shall be permitted by the Director of Community Development or designee upon review of a plot plan or site plan in accordance with standards.
2. The temporary use shall be comparable in scale, impact and type of use to an otherwise allowed use in the district.
3. All temporary structures shall meet the required minimum setback for the building type located on the property, or (in the case of vacant property) the required minimum setback for one of the permitted building types in that zoning district.
4. No portion of the temporary use, or accessory activities associated with the temporary use, shall be located within 30 feet of the property line of an existing residence or a residentially zoned district except for the following:
  - a. *Temporary Offices at Residential Construction / Development Sites may be placed within* a residentially zoned district (see item 8 below) subject to applicable setbacks and separation distances.
5. The use, considering expected attendance, duration, hours of operation, and peak times, shall not create any traffic problems considering access to the site, parking on the site or on adjacent streets, or travel patterns on surrounding streets.
6. The hours of operation shall be between 7:00 a.m. and midnight, except as may be further limited through administrative review based on the specific use and the context of the proposed location.
7. Any use where typical visits are longer than two hours, or an event where a significant component is on-site consumption of food and beverages, shall provide adequate sanitary facilities. Such facilities shall generally be based on one station per 100 persons expected in a peak hour.
8. The duration of the temporary event / use shall be limited as follows (does not apply to Food and Beverage – Mobile uses):
  - a. Special events – no more than seven days.
  - b. General merchandise sales or services – no more than seven days.
  - c. Seasonal sales – no more than 90 days.
  - d. Temporary Offices at Construction / Development Sites –
    1. May be used on the site of a construction / development project if they are removed upon completion of the project. A temporary use permit and building permit is required

- for all temporary offices.
2. In residential districts, any temporary offices may only be located in a model home and must cease upon the issuance of a certificate of occupancy for the last residential dwelling unit for the subdivision or project or, in the case of a subdivision or project for which approval has been given for phased development, for the last dwelling unit for that phase.
  3. Temporary trailers may be used for temporary construction / sales offices associated with residential development, but the placement of such cannot occur until a building permit for a model home is issued and the trailer is allowed only until the model home is completed. All trailers shall be removed once the model home is completed and ready for use.
  - e. Or other appropriate administrative limitation based on the specific use and context of the proposed location.

9. *Permits.*

- a. All necessary permits for facilities, public safety, or insurance shall be obtained prior to the final approval and activation of the use.
  - b. There is hereby levied a temporary use permit fee for food and beverage – mobile uses. Said permit fee shall be set by the Governing Body by resolution.
10. All materials, equipment and temporary structures shall be removed upon the discontinuance of the use, and the site otherwise restored to its pre-use condition

**SECTION THIRTEEN:** All other provisions of Title 17 of the Gardner Municipal Code which are not specifically amended as provided for herein shall continue in force and effect.

**SECTION FOURTEEN:** All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto

**SECTION FIFTEEN:** This ordinance shall take effect and be in force from and after its passage, approval, and publication as provided by law.

PASSED by the City Council this 15th day of March, 2021.

APPROVED by the Mayor this 15th day of March, 2021.

CITY OF GARDNER, KANSAS

(SEAL)

\_\_\_\_\_  
Steve Shute, Mayor

Attest:

\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan B. Denk, City Attorney





**TO:** Gardner Planning Commission

**FROM:** David Knopick, Community Development Director

**DATE:** February 22, 2021

**SUBJECT:** Regular Item 2: Consideration of proposed Title 17 Land Development Code amendments (PUBLIC HEARING).

---

**BACKGROUND**

Periodically the Governing Body or Planning Commission or staff, through the activities associated with the administration of Title 17 Land Development Code (LDC) of the Gardner Municipal Code, may identify the need to make text amendments to the LDC. The process to be used to consider and make such changes is prescribed as follows:

**Section 17.03.110 Text Amendments**

A. **Applicability.** Text amendments to these regulations may be initiated by the Governing Body or the Planning Commission, or by staff on behalf of these entities.

B. **Specific Procedures.** In addition to the general procedures in Table 3-1, and GMC [17.03.010](#), applications for text amendments shall be processed according to the following specific procedures:

1. **Public Hearing.** The Planning Commission shall hold a public hearing on all proposed amendments.
2. **Recommendations.** Upon the conclusion of the public hearing, the Planning Commission shall prepare and adopt its recommendations in the form of a proposed development regulation and shall submit it with a record of the hearing to the Governing Body.
3. **Action by the Governing Body.** When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefor, the Governing Body may:
  - a. **Adopt.** Adopt such recommendation by ordinance,
  - b. **Override.** Override the Planning Commission's recommendation by at least a two-thirds vote of the membership of the Governing Body, or
  - c. **Return.** Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Planning Commission's recommendation, the Planning Commission after considering the same may resubmit its original recommendation giving the reasons therefor or submit new and amended recommendations. Upon the receipt of such recommendation, the Governing Body by a simple majority thereof may adopt or may revise or amend and adopt such recommendation by ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such

*course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.*

4. *Publication. If the Governing Body approves an application, it shall adopt an ordinance to that effect, but the ordinance shall not become effective until its publication in the official newspaper. (Ord. 2518 § 2 (LDC § 3.11))*

Over the past few months staff has encountered several sections of the LDC that require adjustment, clarification or updating in the various chapters of the LDC. The proposed amendments were provided to the Planning Commission at the January 26, 2021 meeting. Subsequently, the proposed amendments have been reviewed by the City Attorney and a public hearing notice has been published.

## **PROPOSED AMENDMENTS**

Draft language related to potential changes is provided below and organized by chapter. A summary paragraph is provided in regard to the nature of the proposed amendments. After the summary paragraph the existing language from the LDC is provided in black font (language proposed to be removed is in black strikeout font) and proposed new language is provided in red font.

### **Chapter 17.01 General Provisions**

The proposed language in this section is related to the zoning of annexed land. The current language, which states that the zoning classification of property changes from the prior jurisdiction's zoning district to a corresponding City zoning district when the land is annexed into the City, is in conflict with State of Kansas court rulings / findings. Therefore, it is proposed that the following sections be changed to address the rezoning of annexed land and nonconformities resulting from such annexation and rezoning activities. The language provided below has been adjusted since it was provided to the Planning Commission on January 26, 2021 as a result of the City Attorney's review.

#### **17.01.030 Establishment of Districts**

**C. Annexed Land** ~~All land which may be annexed to the City shall be classified as the corresponding district most similar to the zoning classification in effect under the prior jurisdiction, until otherwise changed in accordance with these regulations. (Ord. 2518 § 2 (LDC § 1.03))~~

1. **Zoning Classification at the Time of Annexation.** Upon annexation, the City shall initiate a petition to rezone an annexed property to the zoning district most similar to the zoning classification in effect under the prior jurisdiction. Alternatively, an annexed property owner may request that the aforementioned city initiated rezoning petition be deferred and may initiate an application to rezone an annexed property to an appropriate district(s) associated with a development plan / plat for the property.
2. **Zoning Classification and Regulations After Annexation**
  - a. Any owner of land within the area annexed may apply for rezoning under the laws and procedures of the City, and as granted by KSA 12-756 and 12-757, after the effective date of annexation.
  - b. If property annexed before the effective date of this Title is rezoned to a City zoning district, all zoning requirements and regulations of the City take effect, and the regulations of the prior zoning jurisdiction terminate, within the annexed area.
3. **Enforcement.** The City may secure civil remedies for violations of prior zoning jurisdiction regulations to the same extent that it may secure civil remedies for violations of this ordinance pursuant to GMC 17.01.050.

### **17.01.060 Nonconformances**

**E. Nonconformances Created by Annexation.** All nonconformances created as a result of the application of the corresponding zoning district at the time of annexation (per GMC 17.01.030 (C) (1)) shall be allowed to remain in place. Improvements to property, in support of the use of the property at the time of annexation, will be reviewed on a case-by-case basis and may allow for:

1. An expansion of the nonconforming structure(s) or site condition(s) to which the improvement / investment is not greater than 50 percent of the appraised value of the property or applicable structure.
2. An expansion of the nonconforming structure(s) or site condition(s) that is in closer conformance, than the condition that existed at the time of annexation, with the applicable zoning district requirements but not necessarily full compliance, to which the improvement / investment is not greater than 50 percent of the appraised value of the property or applicable structure.

Such case-by-case determinations shall be made by the Director with appeals of such determinations going to the Planning Commission.

### **Chapter 17.02 Definitions**

Current and past staff, through previous review of the LDC, identified the need for clarification of several existing definitions and the addition of a few new definitions to assist with the administration / interpretation of the regulations.

#### **17.02.010 Definitions**

All terms used in these regulations shall have their commonly accepted meaning based upon the context of their use within this Code. The following terms shall have the meaning given below, unless more specifically described, limited or qualified within the standards of this Code.

A

*Accessible* in reference to a lot, means one or both of the following: 1) having a driveway (or an area for a driveway) that provides vehicular access to an existing street; and/or 2) having a public or private access easement that provides vehicular access, or shared vehicular access, to an existing street while meeting all applicable access location and design standards.

*ADA Ready* refers to a building that is more easily retrofitted for future ADA compliance including features such as: 1) Zero level entry, 2) Bathrooms large enough to achieve ADA compliance, and 3) Hallways and doorways that are framed for ADA compliant widths.

B

*Block* means a piece or parcel of land entirely surrounded by public highways or / streets, other than alleys, or bounded by the presence or a combination of other features such as parks / open spaces, cemeteries, railroad or other utility rights-of-way, exterior boundaries of a subdivision or other existing development, shorelines, and/or corporate boundaries. In cases where the platting is incomplete or disconnected, or the development pattern proposed as the result of curvilinear streets, cul-de-sacs or other features creates a scenario which does not meet the definition of a block, the Director shall determine the outline of the block.

L

*Landscape area* means an area that is designed and maintained for landscape plantings.

Landscape areas may include nonplant landscape features and be surfaced with mulch or rock;

however, areas without living plants shall not be considered landscape areas. For the purposes of the Land Development Code xeriscaping features and direct pedestrian walks from front entries to public sidewalks are considered to be part of the landscape area.

P

*Parking block* means a grouping of parking spaces with edges that are defined by landscape areas. Parking blocks may include a variety of different configurations of parking spaces (per Table 9-6 GMC 17.09.040 (B)).

S

*Small Format Home(s)* generally refers to housing types which are smaller than 1,500 square feet. Such homes may be traditional stick-built, manufactured, mobile, modular, or tiny houses, but do not include recreational vehicles or travel trailers.

*Street Tree* means a tree placed in the public right-of-way along the street which may be in front or behind a sidewalk, or within a designated landscape tract or easement adjacent to a public roadway. Typical location is identified as Frontage (A) in Figure 8-1 of GMC section 17.08.030.

T

*Tree, Street see Street Tree above.*

### **Chapter 17.03 Applications and Procedures**

Last September the Planning Commission heard a case related to a mobile home community. As part of the case there were two issues related to the LDC that were identified. The first issue was related to the length of time a conditional use permit shall be valid. The proposed language changes to Section 17.03.050 are intended to address the establishment of a period of time associated with a conditional use permit and the allowance for an extension of such permit.

In regard to the administrative adjustment process there has been some confusion related to the use of this terminology and when the Director is authorized to make administrative adjustments and when the Planning Commission is authorized to do so. The suggested changes clarify the role of the Director and the Planning Commission, and provide additional flexibility to both in regard to the consideration of administrative adjustments. Since January 26, 2021 a minor adjustment has been made to the language associated with the administrative adjustment amount allowed.

#### **17.03.050 Conditional Use Permit**

A. **Applicability.** A conditional use permit provides flexibility for different uses within a zoning district and allows the potential for additional uses under certain conditions. Due to the varying design and operational characteristics of the use or due to conditions in the area where the use is proposed, these uses are not generally appropriate in that district, but may be considered through a case-specific review to determine the compatibility in a specific context and location.

Conditional use permits may be initiated by the owners or authorized agents of any property affected. In addition to the general requirements in Table 3-1 and GMC 17.03.010, the following requirements are specific to conditional use applications.

B. **Review Criteria.** A conditional use permit shall be reviewed according to the following criteria:

1. The application furthers the intent of the proposed zoning district and does not conflict with the intent of any abutting districts.
2. Compliance of any proposed development with the requirements of this Code.
3. Whether any additional site-specific conditions are necessary to meet the purposes and intent of this Code and the intent or design objectives of any applicable subsections of this Code.
4. The impact on the public realm, including the design and functions of streetscapes and relationships of building and site elements to the streetscape.
5. The adequacy of drainage, utilities and other public facilities.
6. Compatibility with the character of the area in terms of building scale, building form, landscape and site design.
7. Compatibility with the area in terms of operating characteristics such as hours of operation, visible and audible impacts, traffic patterns, intensity of use as proposed or foreseeable, and other potential impacts on adjacent property.
8. The application will not prevent development and use of the neighboring property in accordance with the applicable development regulations.
9. The long range plans applicable to the site and surrounding area are not negatively impacted considering the permanence of the proposed use, the permanence of existing uses in the area, and any changes in character occurring in the area.
10. The recommendations of professional staff.

C. **Effect of Decision.** Approval of a conditional use permit by the Governing Body shall authorize the applicant to apply for a building permit, and other applicable permits, **and establish the conditional use.** Approval shall be valid for ~~two years~~ **a period of time determined through the review process** and the Governing Body ~~may grant a one-year extension;~~ provided, that approvals for communication facilities for wireless services shall be for a term of not less than 10 years. Any application not acted upon according to the approval and conditions within **1 year of approval** ~~this time period~~ shall be void; **although the Governing Body may grant a one-time one year extension if justified.** Any amendment to a conditional use permit shall require the same process as the original approval. (Ord. 2546 § 1; Ord. 2518 § 2 (LDC § 3.05))

### **17.03.080 Administrative Adjustments**

A. **Applicability.** The administrative adjustment process is intended to provide flexibility for application of specific standards to sites where it is clear that an alternative approach with minor or de minimis modifications of the standards will equally or better meet the purpose, intent or design objectives of these regulations. Specifically it applies to:

1. Altering a building standard, such as setback, area or height ~~by less than five percent of the stated standard.~~
2. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension ~~by less than 10 percent of the required standard.~~
3. Deviating from any building design standard, where an alternative “equal or better” standard is proposed by the applicant.
4. In any of these cases the adjustment cannot create conflicts with any other applicable standard.

B. **Specific Procedures and Allowances.** Applications for administrative adjustments shall follow the same procedures required for a site plan and design review or administrative site plan,

whichever is applicable. In **administrative site plan** cases where the Director is the decision authority, administrative adjustments may be granted by the Director. In the case of **site plan and design review** where the Planning Commission is the decision authority, administrative adjustments may be granted only by the Planning Commission.

1. **Administrative Site Plan cases:**

- a. Altering a building standard, such as setback, area or height by up to 10% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 3 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 3) standard respectively.
- b. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by up to 10% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 3 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 3) standard respectively.
- c. Deviating from any building design standard, where an alternative “equal or better” standard is proposed by the applicant.

2. **Site Plan and Design Review cases:**

- a. Altering a building standard, such as setback, area or height by up to 20% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 6 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 6) standard respectively.
- b. Reducing a site design standard, such as a landscape requirement, parking quantity or location, open space requirement or dimension by up to 20% of the stated percent (e.g. the stated percent is 30% then the adjustment allowed is up to 6 percentage points) or numeric (e.g. the stated number is 30 then the adjustment allowed is up to 6) standard respectively.
- c. Deviating from any building design standard, where an alternative “equal or better” standard is proposed by the applicant.

C. **Review Criteria.** In considering an administrative adjustment, the Director and Planning Commission shall find that the following criteria are met.

1. The relief requested is compatible with the surrounding area in terms of building scale, building form, and landscape and site design.
2. The relief requested supports the intent and applicability of the zoning district.
3. The relief requested is based upon sound planning and urban design principles that are consistent with the intent and objectives behind the applicable standard.
4. Compliance with the standard is not practical due to some factors specific to the site or context.
5. The relief requested is not strictly for the convenience of the applicant or a specific tenant, and is the minimum necessary to result in the best design for the site.
6. The relief requested produces no perceived impact on the adjacent property or public realm, than would otherwise occur if the standard were met.
7. The relief requested may be limited to specific conditions, or proposed alternatives that equally or better meet the intent of the applicable standard.
8. In the case of any specific standard where exceptions or alternative compliance is identified in this Code, the relief shall be limited only to the extent identified with that standard. (Ord. 2518 § 2 (LDC § 3.08))



## Chapter 17.05 Zoning Districts and Use Standards

The second issue previously identified in relation to a mobile home community was the requirement of a conditional use permit for a manufactured / mobile / micro home community within the only zoning district which allows such use. The RM-P Residential Manufactured and Mobile Home Planned District is a special district that addresses a variety of development standards per Section 17.06.020. The proposed adjustment would change such use from a conditional use to a permitted use in the RM-P district subject to the standards in Section 17.06.020.

The second set of proposed changes has to do with the placement of temporary offices at residential construction and development sites. Recently staff has received an inquiry regarding the placement of such an office on a residential development site. Such an office would be considered a temporary use and as such would not be allowed in a residential zoning district. The potential changes would allow the placement of temporary construction / sales offices on residential construction / development sites in residential districts within the parameters outlined. Minor language adjustments have been made since January 26, 2021 to clarify that such offices are in support of residential development.

### 17.05.030 General Use Standards

A. **Permitted Uses.** In order to implement the intent of each zoning district, facilitate complementary transitions between districts, and to regulate a variety of compatible uses within zoning districts, use categories and general uses have been established for principal uses of land and buildings. Table 5-2 indicates permitted uses (P) subject to general district and building type standards, permitted accessory uses (A) subject to specific accessory use standards, temporary uses (T) subject to limited permits, and conditional uses (C) subject to the discretionary review process in GMC [17.03.050](#). All uses may be subject to more specific standards, limitations and performance criteria as identified by an asterisk in Table 5-2 and in GMC [17.05.040](#), [17.05.050](#) and Chapter [17.11](#) GMC. Use categories, general uses and specific types of uses are more specifically described in subsection (B) of this section.

**Table 5-2: Use Table**

	Residential Districts							Nonresidential Districts						
	A	RE	R-1	R-2	R-3	R-4	R-5	RM-P	C-O	CO-A	C-1	C-2	C-3	M-1
RESIDENTIAL DWELLINGS														
Manufactured/Mobile/Micro Home Community								CP*						
Temporary Use (See Section 17.05.050 Y)	T*								T*	T*	T*	T*	T*	T*

### 17.05.050 Specific Use Standards

**Y. Temporary Use.** Where temporary are permitted (as indicated in Table 5-2), all of the following standards shall be met:

- No portion of the temporary use, or accessory activities associated with the temporary use, shall be located within 30 feet of the property line of an existing residence or a residentially zoned district **except for the following:-**

- a. *Temporary Offices at Residential Construction / Development Sites may be placed within a residentially zoned district (see item 8 below) subject to applicable setbacks and separation distances.*

8. The duration of the **temporary** event / **use** shall be limited as follows (does not apply to Food and Beverage – Mobile uses):

- a. Special events – no more than seven days.
- b. General merchandise sales or services – no more than seven days.
- c. Seasonal sales – no more than 90 days.
- d. **Temporary Offices at Construction / Development Sites –**
  1. **May be used on the site of a construction / development project if they are removed upon completion of the project. A temporary use permit and building permit is required for all temporary offices.**
  2. **In residential districts, any temporary offices may only be located in a model home and must cease upon the issuance of a certificate of occupancy for the last residential dwelling unit for the subdivision or project or, in the case of a subdivision or project for which approval has been given for phased development, for the last dwelling unit for that phase.**
  3. **Temporary trailers may be used for temporary construction / sales offices associated with residential development, but the placement of such cannot occur until a building permit for a model home is issued and the trailer is allowed only until the model home is completed. All trailers shall be removed once the model home is completed and ready for use.**
- e. Or other appropriate administrative limitation based on the specific use and context of the proposed location.

#### **ACTION / RECOMMENDATION**

Planning Commission shall conduct a public hearing, as published, per Section 17.03.110 in order to consider public comment related to the proposed text amendments. After closing the public hearing the Planning Commission shall discuss the proposed amendments and make a motion to recommend one of the following:

1. Approval of the proposed amendments as presented, or
2. Approval of the proposed amendments with modifications, or
3. Disapproval of the proposed amendments.

Planning staff recommends that the Planning Commission recommend approval of the proposed amendments and forward such recommendation to the Governing Body.

## **PLANNING COMMISSION MEETING**

City of Gardner, Kansas  
Council Chambers, City Hall  
Monday February 22, 2021  
7 p.m.

### **1. Consideration of proposed Title 17 Land Development Code amendments (Public Hearing)**

Mr. Dave Knopick, Community Development director presented the proposed amendment revisions to several chapters of Title 17 Land Development Code. Over the past few months staff has encountered several sections of the LDC that require adjustment, clarification or updating in the various chapters of the LDC. The proposed amendments were provided to the Planning Commission at the January 26, 2021 meeting. Subsequently, the proposed amendments have been reviewed by the City Attorney and a public hearing notice has been published for consideration of the proposed amendments at this meeting.

Mr. Knopick presented a summary presentation of the issues to be addressed, by the specific proposed revisions and potential changes in the staff report, per the following framework.

#### *Chapter 17.01 General Provisions*

The proposed language in this section is related to the zoning of annexed land. The current language, which states that the zoning classification of property changes from the prior jurisdiction's zoning district to a corresponding City zoning district when the land is annexed into the City, is in conflict with State of Kansas court rulings / findings. Therefore, changes are proposed to address the rezoning of annexed land and nonconformities resulting from such annexation and rezoning activities.

#### *Chapter 17.02 Definitions*

Current and past staff, through previous review of the LDC, identified the need for clarification of several existing definitions and the addition of a few new definitions to assist with the administration / interpretation of the regulations.

#### *Chapter 17.03 Applications and Procedures*

The Planning Commission had previously heard a case related to a mobile home community. As part of that case there were two issues related to the LDC that were identified. The first issue was related to the length of time a conditional use permit shall be valid. The proposed language changes are intended to address / clarify the establishment of a period of time associated with a conditional use permit and the allowance for an extension of such permit.

Additionally, in this chapter there has been some confusion related to the administrative adjustment process terminology and when the Director is authorized to make administrative adjustments and when the Planning Commission is authorized to do so. The suggested changes clarify the role of the Director and the Planning Commission, and provide additional administrative discretion to both in regard to the consideration of administrative adjustments. The recommendation is that the Director would have 10% adjustment discretion for administrative site plan reviews and the Planning Commission would have 20% adjustment discretion for site plan reviews.

#### *Chapter 17.05 Zoning Districts and Use Standards*

Another previously identified issue in relation to mobile home communities was the requirement of a conditional use permit for a manufactured / mobile / micro home community within the only zoning district which allows such use. This proposed adjustment would change such use from a

conditional use to a permitted use in the RM-P district subject to the standards in Section 17.06.020.

Additional proposed changes in this chapter have to do with the placement of temporary offices at construction and development sites. Such office would be considered a temporary use and under the current code would not be allowed in a residential zoning district. The potential changes would allow the placement of temporary construction / sales offices on residential construction / development sites in residential districts within the parameters outlined.

### **COMMISSION DISCUSSION:**

Commissioner Ham stated all of the changes make sense and understood the rationale after reading all of the proposed changes side by side. She is glad that the administration noticed the necessary adjustments to be made.

Commissioner Meder agreed the changes were needed. She had questions concerning Chapter 17.02 the definition of xeriscaping. Mr. Knopick explained that xeriscaping was a landscaping method incorporating lower water usage materials and plants involved to reduce or eliminate the need for irrigation.

Commissioner Meder also inquired about the increase in the percentage for administrative adjustments, and if the proposed increase would be more effective in addressing know issues. Mr. Knopick stated this adjustment appeared to be a good starting point without dramatically increasing administrative discretion. Staff will be monitoring the use of the increase in different situations and may bring further adjustments to the percentages forward in the future.

Commissioner Ford is in agreement that all of the changes make sense and the presentation was well done.

Commissioner Boden stated he was happy to see all the changes made, and the proposed administrative adjustments would have come in handy during the building of the new Price Chopper.

**Motion made after review of the proposed Title 17 Land Development Code amendments, staff report dated February 22, 2021, that the Planning Commission recommend approval of the proposed amendments as presented.**

**Motion by Commissioner Meder and seconded by Commissioner Ham.  
Motion passed 4-0.**

### **DISCUSSION ITEMS**

There were no discussion items.

### **ADJOURNMENT**

**Motion to adjourn made by Commissioner Ford and seconded by Commissioner Meder.  
Motion passed 4-0.**

Meeting adjourned at 7:34 pm.

## City of Gardner, KS

### Council Actions

March 15, 2021

The City Council took the following actions at the March 15, 2021, meeting:

1. Approved the minutes as written for the regular meeting held March 1, 2021. (Passed unanimously)
2. Approved City expenditures prepared February 26, 2021 in the amount of \$819,386.51; March 1, 2021 in the amount of \$1,627,390.22; and March 5, 2021 in the amount of \$1,072,688.24. (Passed unanimously)
3. Authorized the City Administrator to execute a contract with Emery Sapp and Sons for the Hilltop Ridge Benefit District Projects for a total of \$723,143.39 and authorize the City Administrator to approve construction related Change Orders up to an additional \$72,000.00 (10%). (Passed unanimously)
4. Reappointed Matt Ponzer as Director #1, with voting rights, on the Kansas Municipal Energy Agency Board of Directors for a term expiring April 30, 2023. (Passed unanimously)
5. Authorized the City Administrator to execute a service contract with Denali Water Solutions, LLC for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project, in the amount of \$54,779.00. (Passed unanimously)
6. Adopted Ordinance No. 2695, an ordinance amending the Land Development Code of the City of Gardner, Kansas by amending sections of Title 17 of the Gardner Municipal Code. (Passed unanimously)